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**USAID WHISTLEBLOWER, MR. PAUL NEIFERT,
MOTIONS RELATED TO COMPELLING THE
TESTIMONY OF USAID
ASSISTANT ADMINISTRATOR FOR
MANAGEMENT, MR. LARRY BYRNE,
AND ADMINISTRATION RESPONSE TO USAID
WHISTLEBLOWER, MR. PAUL NEIFERT**

**HEARING AND BUSINESS
MEETING**

BEFORE THE

**COMMITTEE ON
INTERNATIONAL RELATIONS
HOUSE OF REPRESENTATIVES**

ONE HUNDRED FOURTH CONGRESS

SECOND SESSION

MAY 21, JUNE 6, AND JUNE 18, 1996

Printed for the use of the Committee on International Relations



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USAID WHISTLEBLOWER, MR. PAUL J. NEIFERT

TUESDAY, MAY 21, 1996

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, DC.

The committee met, pursuant to notice, at 10 a.m. in room 2172, Rayburn House Office Building, Hon. Benjamin A. Gilman, chairman of the committee, presiding.

Chairman GILMAN. The committee will come to order.

Today our committee meets to take testimony from Mr. Paul Neifert, a whistleblower with the Agency for National Development. Mr. Neifert is a former Peace Corps volunteer who joined USAID in 1984 and served in the Ivory Coast and in Guinea Bissau before being posted to South Africa in 1991.

Paul Neifert is, and I quote, a "Luso-American"—that is, the son of American and Brazilian parents who drew on his international heritage to serve USAID and the Peace Corps.

While stationed in South Africa, Mr. Neifert raised concerns about the contracting and grant-making procedures and the quality of projects that had been funded by USAID.

For example, Mr. Neifert questioned a \$300,000 grant to the Soft Sheen International Foundation to build a school for hairdressers in Johannesburg that was later closed.

Mr. Neifert will also talk about a visit in 1994 by USAID Administrator Atwood to Finetown, South Africa, as my colleagues can see in the photo. The administrator laid a brick and cut a ribbon at a "Potemkin" school that USAID had already rejected for funding. The school was never built.

After Mr. Neifert raised questions about waste, fraud and abuse in USAID's South African Mission, his tour was curtailed.

While Mr. Hamilton and Senator Patrick Leahy initiated investigations on Mr. Neifert's behalf, he was given a make-work assignment in USAID's Washington headquarters. He was investigated by the Agency's IG (Inspector General).

Mr. Neifert complained about his treatment and sought protection as a whistleblower with the U.S. Office of the Special Counsel. USAID responded by offering Mr. Neifert a cash settlement and other perquisites in return for his departure from the foreign service and his silence regarding the settlement.

At our April 25th USAID hearing, Administrator Atwood was asked about this secret agreement to end Mr. Neifert's career that included an undisclosed cash settlement paid for with appropriated taxpayer funds. Mr. Atwood answered, and I quote,

"When we reach agreements, any government agency, with an individual, the government agency and the individual, for the protection of the individual, does not disclose the terms of that agreement."

Despite the fact that Federal funds were used to buy Neifert's silence, Mr. Atwood refused to disclose this use of funds appropriated under the Foreign Assistance Act. Mr. Atwood is in the process of laying off 200 USAID employees because of budgetary cuts. It would appear that several of those employees are losing their jobs so that USAID can make this secret payoff to Mr. Neifert.

On May 2nd, the committee invited Mr. Neifert to testify about this situation. He replied on May 3rd that he would be willing to do so, but that under the terms of his agreement, he could appear before the committee only under subpoena or court order. Our committee thereafter subpoenaed Mr. Neifert to testify regarding his taxpayer-funded settlement, practices of waste and mismanagement at the USAID mission in South Africa.

Our committee authorized a subpoena for Mr. Neifert without hearing any objection. In fact, the subpoena was approved on a voice vote and was served on him yesterday.

Late last week I received a letter from Mr. Hamilton asking for delay in the hearing in order to subpoena a witness from USAID, and I responded that, in the opinion of the Chair, since the only item subject to subpoena was the settlement agreement that USAID had sought to keep secret from the Congress, USAID could appear without any subpoena.

I would also note that all of the allegations of waste, fraud and abuse are public.

There have been over 20 articles on the charges against USAID's South African management and a two-volume IG's report.

I invited Mr. Hamilton to propose a USAID witness to respond to the body of Mr. Neifert's charges. I believe that the time for that may now have passed. I will, at Mr. Hamilton's request, schedule a business meeting of our committee to subpoena the USAID witness of his choice for any follow-up hearing that he may desire.

Given the difficulties we experienced previously in seeking authorization for subpoenas, I will endeavor to work with Mr. Hamilton and his staff to help ensure that the appropriate quorum is present.

Before hearing from our witness, and before I make a further remark, I would like to say that I am pleased to see that Mr. Bob Boyer of USAID is in attendance. I understand he was recently hospitalized, and we are happy to see him back in the saddle again. Welcome.

Before hearing from any other witness, I ask our ranking minority member, Mr. Hamilton, if he has an opening statement.

Mr. HAMILTON. Thank you very much, Mr. Chairman. I do want to say a word or two about the process surrounding the hearing. I want to say at the outset that I know very little about the substantive differences between Mr. Neifert and USAID, and I will reserve judgment on the merits of those problems, but I do think the process we are following is a bit unusual.

Mr. Neifert reached, as I understand it, a legal settlement with USAID that you have referred to, Mr. Chairman, in your state-

ment; and the agreement specifies that neither party will speak publicly about it. I understand that there is an exemption, or an exception, for a subpoena in the agreement and that the committee has now issued the subpoena for Mr. Neifert's testimony here today.

Regardless of the legalities, finding a way for him to testify by the issuance of a subpoena to him, but not to USAID, strikes me, first of all, as being unusual, and second, a little unbalanced. And I think we must understand that today we are just going to hear one side of the story. It may be the correct side, it may not be; I don't really know.

So I asked, as the Chairman indicated, to delay the hearing until arrangements could be made for both Mr. Neifert and a representative of USAID to testify today. To my mind, that seemed the fair way to proceed, and a rational way to proceed, as well, if we were interested in trying to find out the facts of the matter. I see a benefit in hearing both sides tell their side of the story at the same time in the same place.

I do appreciate very much the Chairman's comment a moment ago in which he said he would be willing to have USAID testify—I guess if it is necessary—under a subpoena. I would certainly hope that USAID would take advantage of that opportunity to tell their side of the story. I would like them to do it today; maybe that is not possible because of the legal situations we confront, but I would urge testimony at a later date and as soon as possible.

I have looked at the facts of the case enough to know that it is rather complex, but I am concerned that we are approaching it today by what I think is not the best process. It might even be a faulty process, because we are hearing one side only.

I asked myself the question, is it really the best procedure to hear one side now and the other side later, perhaps much later, perhaps not at all, and I don't think so. It would clearly be better, I think, to have both sides before the committee at the same time, allow each side to make their points and respond to those points of the other side.

Let me finally observe that so far as I am informed, the problems in the South African mission have been acknowledged, and either have been corrected or are in the process of being corrected. I hope that is the case. That is what I have been told. USAID has responded to some of the current concerns raised by the critics, and they have made a lot of changes in their operations. In that sense, then, I hope the system is working.

I do think that if you look back over American policy toward South Africa over a period of time, it has, in the main, been successful; and that the United States played a very important role in helping that election come off with a minimum of violence, and that the housing program has hit the mark.

So we look forward to focusing on assisting the new South African Government to move past apartheid and into a new era; and I thank you, Mr. Chairman, for your letting me comment.

Chairman GILMAN. Thank you, Mr. Hamilton.

Mr. Hamilton, again, I will be pleased to schedule a business meeting of the committee to subpoena a USAID witness to follow, if it is necessary to subpoena a USAID witness to balance Mr.

Neifert's testimony. Again, I would like to note that a USAID witness would have had the opportunity to appear today as we indicated to you previously without the necessity for a subpoena, and that invitation is still open as of today.

Mr. PAYNE. Mr. Chairman, I have a point of order.

Chairman GILMAN. Yes. The gentleman is recognized.

Mr. PAYNE. Could you clarify the purpose of this subpoena and this hearing? The only reason I ask it, I guess, is because this is really the first hearing of the full committee this year where a subject of Africa has been raised. Of course, this is about a specific individual, but it just seems to me to almost be a disgrace that we have situations in Liberia where people are being forced out of countries and are starving to death; we have criminal behavior by leaders in Nigeria; we have Burundi ready to explode and the only thing that this committee, under your leadership as relates to Africa, has found the wisdom or the justice to have a hearing about is about an individual and whether he was discriminated against or not.

But it is the same thing. I just left a hearing on church burnings where there have been 60 in this year already, and finally we have a hearing on it. But the hearings of that Justice Committee, Judiciary Committee, have been on Ruby Ridge. We had over 10 days of hearings, 100 witnesses on Waco, whether any people's rights were violated; Ruby Ridge with Randy Weaver to see whether the white supremacists had their rights violated.

So if we take any area of this 104th Congress, it seems that there is a thread that runs through, regardless of how important everything else is, it is a person in a country of 600 million people who just said he thought he was treated badly. I think it is a waste of taxpayers' money, and I am very disappointed at this kind of charade.

Chairman GILMAN. Mr. Payne, as you know, this hearing concerns the use of foreign assistance funds to buy a whistleblower's silence, and as you know, the full committee does have jurisdiction over foreign aid; and members on this side question the use of the USAID funds in this situation, and that is what we are talking about, waste.

I would like to note that with regard to Liberia and Nigeria and some of the other problems, our Subcommittee on Africa held a hearing on Nigeria in December, the subcommittee is holding a hearing on human rights in Africa tomorrow, and the Subcommittee on Africa held a hearing on Liberia 2 weeks ago. So we are not neglecting those problems by any means. But the waste of foreign assistance funds is a proper province of this full committee, and that is what we are exploring today.

Mr. PAYNE. Mr. Chairman, this full committee has taken up other things other than what a subcommittee's jurisdiction was, and I am just simply saying that there is definitely—with millions of people at risk, that we are taking the time. This is the third hearing of this nature already, talking about wasting taxpayers' money; it is nothing new. They had it in the Senate, I sat over there and heard the whole thing then. It is just like the same old thing, warmed over again, and it is just a thread that continually

runs through; and I think it is wrong to do politics through a hearing of a committee.

Chairman GILMAN. Well, this certainly is not intended to be any political investigation, but an investigation to determine whether there is an abuse of the utilization of USAID funds.

Mr. Neifert—

Mr. HASTINGS. Mr. Chairman, I have a point of order.

Chairman GILMAN. Yes, I am sorry.

Judge Hastings.

Mr. HASTINGS. Mr. Chairman, first, were you going to ask if any other members of the committee had any opening statement, and may I be permitted to—

Chairman GILMAN. You certainly would.

Mr. KIM. Mr. Chairman, I would like to make an opening statement, please.

Mr. HASTINGS. Well, in light of that, could we hear Mr. Kim and then myself?

Chairman GILMAN. Mr. Kim.

Mr. KIM. Thank you, Mr. Chairman.

Mr. Chairman, I would like to ask unanimous consent to submit my written statement for the record in the interests of time.

Mr. Chairman, I would like to thank you again for your personal effort to seek out the truth about the USAID mission in South Africa. Your leadership has made it possible for us to be here today to hear testimony from a dedicated and courageous American, Mr. Paul Neifert. I am proud to let my fellow Americans know that Mr. Neifert is one of my constituents from Upland, California. I look forward to hearing from Mr. Neifert and an opportunity to explain the truth—the truth, as he has done to me.

Again, I thank you, Mr. Neifert. I appreciate you coming today. It takes a lot of courage.

Chairman GILMAN. Thank you, Mr. Kim. Your full statement will be submitted for the record.

[The prepared statement of Mr. Kim appears in the appendix.]

Chairman GILMAN. Mr. Hastings.

Mr. HASTINGS. Thank you, Mr. Chairman.

Mr. Chairman, I want to associate myself with the remarks of the ranking member regarding the process, and also associate myself with the remarks of Mr. Payne. In spite of the Chairman's assertions, Mr. Payne and I serve on the Subcommittee on Africa, and I wish to urge that many of the issues that he raised have not been addressed in any of their particulars during the course of this session. Mr. Payne and I have attended every meeting of the Subcommittee on Africa.

In that light, Mr. Chairman, what Mr. Hamilton said is really important, and we dive into this at great risk and peril. I offer to you, only by way of background, 34 years of legal experience and only 3 years in the U.S. Congress. But when we are invading contractual provisions, we should tread very, very carefully and not hurry with our process, because it establishes a precedent that may very well cause considerable problems, not only with reference to any allegations made by this individual, but others.

For example, you responded, Mr. Chairman, to Mr. Hamilton by saying that perhaps in a business meeting a USAID representative

would be made available for a hearing. Well, I preread Mr. Neifert's testimony, and Mr. Neifert makes allegations, not just about an agency; he identifies individuals by name—John Hicks, Keith Brown, Leslie Dean, Bill Ford, Donald Keene—and it is patently unfair if, at some point, we are not going to hear from all of the individuals who had some particular responsibility.

Mr. Chairman, I don't want to belabor this, but I do wish to make a request of the Chair now that I was hopeful of being able to make later. I would like to request from USAID and make a part of the record of this hearing any documentation—be it in the form of letters, memoranda, E-mails, cables—which may shed light on or present USAID management's position on why Mr. Neifert's request for a second tour in Africa was denied.

If there are documents that record counseling sessions with Mr. Neifert or reports of documents from the United States Embassy or Mission Director to USAID Central Personnel, the IG, or other offices within USAID dealing with Mr. Neifert's conduct, I request that these be provided to the committee.¹

Finally, Mr. Chairman, a week ago—a little more—we heard from the IG regarding many of the allegations that have been raised, and this is kind of like after the fact, but almost all of the allegations that the gentleman is prepared to put forward, based on his written testimony, have pretty much been put to rest.

Thank you, Mr. Chairman.

Chairman GILMAN. Thank you, Mr. Hastings.

I think the gentleman has made a constructive suggestion, and we will make a request of the documents that the gentleman would like. I would like to ask the gentleman if he would put in writing specifically which documents he would like to make available to the committee.

Mr. HASTINGS. That is the problem, Mr. Chairman. I will, as best I can. I don't know what others know.

Yes, sir, Mr. Chairman, I will put it in writing.

Chairman GILMAN. If the minority staff will provide us with that memorandum, we will be pleased to pursue it.

Mr. Neifert, I understand that your last day with USAID will be tomorrow. On behalf of the Congress, I want to thank you for your service, both in the Peace Corps and USAID, that you rendered to your Nation. In summarizing your service in the settlement agreement, I note that USAID Assistant Administrator for Management, Lawrence Byrne wrote, and I quote,

"In each overseas assignment, Mr. Neifert distinguished himself through uncompromising integrity, rare courage, and creative energy, upholding the finest ideals of the American Foreign Service. Mr. Neifert received numerous awards for his meritorious performance, including two career promotions. Mr. Neifert leaves the Foreign Service in good standing and we regret his departure."

Mr. Neifert, we would welcome your narration of what occurred for the committee.

Mr. HAMILTON. Mr. Chairman, may I make a point, and I don't mean in any way to reflect on Mr. Neifert here. But I notice the Chairman from time to time has been swearing in witnesses, and

¹The abovementioned documents are available through the committee.

I just wonder under what circumstances you swear in witnesses and under what circumstances you do not.

Chairman GILMAN. Well, if the gentleman would like to make a request, I will be pleased to have the witness give sworn testimony before us.

Mr. HAMILTON. It doesn't matter to me a great deal. I think it is a good thing to be consistent in the policy. What struck me recently—

Chairman GILMAN. Mr. Neifert, would you please stand and raise your right hand.

[Witness sworn.]

Mr. HAMILTON. Is it the Chairman's policy now to swear in all witnesses?

Chairman GILMAN. We will swear in witnesses when we deem it appropriate for any essential testimony before our committee.

Mr. Neifert, you may proceed.

STATEMENT OF PAUL J. NEIFERT, USAID WHISTLEBLOWER

Mr. NEIFERT. Thank you, Mr. Chairman and members of the committee. In late 1992, without realizing it at the time, I became a whistleblower at the South Africa mission of the Agency for International Development. By close of business tomorrow, at the insistence of senior agency officials, I will end my last full working day as a USAID employee.

Because of my dissent to USAID practices in South Africa, which I believed were illegal and opposed to American interests, my assignment to that country was terminated, and I was transferred back to Washington in June 1994. Since that time, USAID avoided any serious response to the problems exposed by my allegations, retaliated by assigning me to a paper-pushing job in Washington, and referred me at least twice to the IG's Office on trumped-up charges.

In order to protect myself, I secured legal counsel and sought whistleblower protection at the Office of the Special Counsel. It was only after embarrassing media exposure and the intervention of concerned Members of Congress, such as you, Mr. Gilman, that USAID managers began any serious efforts toward resolving this matter.

On April 23rd, 1996, USAID signed an agreement that paid me compensatory damages and legal fees, but which required I resign from the Foreign Service and remain silent about the settlement terms. A few brief examples serve to highlight the reasons for my dissent against USAID mismanagement.

Despite an intensive contract design effort involving the participation of respected South African business leaders and consultants, USAID managers abruptly canceled a \$15 to \$20 million contract solicitation under the Black Private Enterprise Development program. The cancellation decision was made by USAID South Africa Director Leslie Dean and Africa Bureau officials in February 1994 without consulting the office responsible for its design and despite the solicitation's advertisement in the Commerce Business Daily.

The South African consultants who participated in the project design, and a number of small disadvantaged South African firms that planned to join with larger U.S. companies in the contract, found themselves exposed and embarrassed in the local profes-

sional community. The project was designed to offer support for South Africa's disadvantaged businesses in an emerging, integrated market economy. Instead, the last-minute contract cancellation alienated influential South Africans and contributed to a growing level of concern about the value of U.S. assistance.

After receiving Mr. Dean's preliminary approval to proceed, our office negotiated a separate \$300,000 grant with the Corporate Council on Africa, a U.S. nonprofit organization that promotes American investment and trade with Africa. After I prepared the lengthy grant document, Dean inexplicably reversed his decision and refused to sign the grant at the last moment. Mr. Dean never provided any explanation for his decision.

Related questions about the intrusion of political influence were raised about USAID South Africa grants to the National Democratic Institute, the Martin Luther King Center, the Congressional Black Caucus Foundation and the International Foundation for Education and Self-Help, among others. Concerns also continue about the mission's democracy/governance program and its lack of balance in USAID support to South Africa's competing political parties.

USAID South Africa officials wasted 3 years and hundreds of thousands of dollars designing a \$50 million Tertiary Education Linkages Project. Despite this time and expense and the passage of almost another 2 years, the project has little or nothing to show as a result.

Compensation has been paid to other USAID employees. After over a year of widespread staff complaints, investigation was begun into the manner in which the executive officer, Bruce Gatti, executed and administered contracts of local employees. The investigation resulted in the payment of 165,000 South African rand, which was approximately \$50,000 at the time, to a minimum of 11 locally hired employees, all South African.

The investigative report concluded that this aspect of the USAID personnel system was, "bitterly resented by employees who do not understand why the U.S. Government would impose such an unfair policy on people trying to overcome the effects of apartheid".

I think we all watched with amazement and joy as South Africans of all colors succeeded in their long struggle against an abhorrent system of racial apartheid. Nelson Mandela, the heroic and noble leader of the anti-apartheid victory, demonstrated for the world the kind of universal authority flowing from highly principled and moral leadership.

Now that the battle against apartheid is won, the United States has an interest in supporting all South Africans to ensure success of their new, nonracial dispensation. This interest requires the United States to offer advice and assistance to South Africa which may often be difficult to deliver. Our duty to the truth and our values require that we try.

It means reminding the new government that it must make the tough decisions to keep its economic house in order, to ensure the spread of its free marketplace, and to strengthen the pluralism of its democracy. It means forthrightly reminding South African officials that we take exception to their positions with regard to rogue nations such as Libya, Iran and Cuba. We do this as Americans be-

cause our experience shows that the majority of people prosper most through fiscal conservatism, free markets and multi-party democracy.

Sadly, though, this Administration is apparently not delivering these tough messages. Instead, they seem content to use the South African program more as a trough for selfish, domestic political patronage than as a thoughtful instrument of American foreign policy. The USAID program's degeneration into a clear pattern of political and racial spoils is an obvious example of what is fundamentally wrong with this approach: it is utterly without principle and sharply diverges from our country's own cherished values.

Our relationship with the new South Africa has also become overly personal, relying upon a reckless form of hero worship rather than a sober analysis of long-term national interest.

All is not well in South Africa today, despite the rosy reporting which dribbles out from the political appointees and State Department careerists running our embassy in Pretoria. The rand has dropped precipitously; foreign exchange reserves are reported to be low; capital flight continues; speculators, rather than long-term institutional investors are on the rise; a strain of anti-Americanism has emerged; crime is rife; privatization efforts have reportedly slowed or stopped at big South African parastatals, international money managers have not endorsed the latest cabinet shuffle, and the American embassy in Pretoria has the reputation of unfairly favoring the ANC while ignoring other political parties such as the IFP and the National Party.

This may come as a surprise since Administration officials have led us all to believe that everything is well in the new South Africa. But with the handoff of the South Africa program to inexperienced and misguided Administration supporters, and the election year requirement for "no problems on my watch", our long-term foreign policy interest in seeing a successful South African transition is being dangerously, if not fatally, compromised.

As for the matter at hand, there is not much more I can add today which has not already been said about the mismanagement at USAID South Africa. As you are aware, numerous investigations have been conducted into the administration of this program. Stewardship of the USAID effort was the responsibility of Mr. John Hicks, assistant administrator for Africa, Mr. Keith Brown, director for Southern Africa Affairs, Mr. Leslie Dean, South Africa mission director, Mr. Bill Ford, mission deputy director, and Mr. Donald Keene, mission legal advisor. The inquiries into management of the South Africa program have uncovered a clear pattern of waste, fraud and abuse which has cost the taxpayers dearly.

I have five of these investigative reports with me today, two of which were reportedly referred to the Justice Department. There also have been widespread media accounts of these controversies published in prominent newspapers both in the United States and in South Africa. I have 20 of these stories here.

In addition, a host of concerned employees have expressed their profound dismay with the conduct of the USAID officials responsible for these abuses. Here are four affidavits and 13 statements from my former colleagues in South Africa. They provide graphic

and heartfelt testimony about the mismanaged state of USAID affairs.

If there is any interest in the above-mentioned documents, I would be pleased to make them available. I would like you to know that I earlier provided many of these same materials to staff members on both sides of the committee aisle.

As you will see, the weight and breadth of this information offers yet further evidence, if additional proof is required, of a USAID program which has been very badly managed. It offers a compelling case study of why urgent reforms are needed at this troubled agency.

In spite of all of this evidence, USAID irresponsibly refused to correct its management weaknesses in South Africa, resorting instead to a damage-control exercise leading eventually to a broad-based institutional coverup. Such unconscionable dereliction of responsibility exacerbated the initial mismanagement and inflicted further harm upon our foreign assistance program. Indeed, the lack of any substantive action left the impression among South Africans and Americans alike that the senior-most officials in Washington, including USAID Administrator Bryan Atwood and his superiors, condoned the events which had taken place.

Consistent with this view is the fact that all of those USAID managers responsible for this debacle were rewarded with promotions and honors. Those Foreign Service officers who questioned these practices were neutralized in whatever way required; those who complained were victimized. Such is the state of reengineering at USAID today.

While some might find it unusual for a Foreign Service officer to be forced from a 12-year public career and to testify before Members of Congress under subpoena, I do not. For during the last 3 years, I have witnessed many extraordinary events including the tragic unraveling of a once effective foreign assistance program and the shredding of our country's honor in the new, nonracial South Africa. To witness such incompetence and arrogance on the part of senior USAID officials has been extremely disheartening.

I thank you for your invitation here today. The fact that a junior Foreign Service officer can offer testimony before the House Committee on International Relations conveys a powerful statement about the integrity of our political system. Had it not been for the issuance of your subpoena, USAID might have succeeded in further concealing these matters from your oversight.

There is one aspect of this controversy which does indeed surprise me. I am astonished that after numerous investigations, public embarrassment and employee anguish, USAID managers would persist in their coverup of this affair.

On November 6, 1995, the USAID Office of the IG published a report entitled, "USAID/South Africa Contracting and Personnel Practices." As committee staff are aware, the USAID office in South Africa has a fully delegated senior contracting officer, Mr. John McAvoy, who possesses an unlimited dollar contract signature authority. Despite this fact, the IG report fails to provide any record of interviews with McAvoy and, in fact, conceals mention of McAvoy's own dissent in the matter of USAID procurement abuses.

I understand that Mr. McAvoy registered serious and repeated complaints about the legality of procurement methods at the USAID mission. I am also aware that Mr. Dean retaliated against McAvoy by seeking his transfer from South Africa, just as Dean had earlier transferred me from Pretoria for my objections to USAID mismanagement.

Mr. Chairman, how can the IG credibly investigate widespread reports of USAID contracting violations, yet fail to record the statements and interviews of the one person most knowledgeable of such misconduct?

The IG investigation into mission personnel practices is similarly deficient. USAID conceals the fact that an excessive number of staff departed South Africa prior to the end of their tours or the completion of their contracts. During an approximate 3-year period beginning in January 1993, a minimum of 13 staff members departed the mission early, while only two successfully completed their tours of duty.

One of the two latter employees rescinded her request for an assignment extension when the mismanagement of Dean and Ford reached unbearable proportions. In another instance, the unexplained transfer of the assistant director, Janice Weber, compelled Ambassador William Swing to send a strongly worded protest to USAID headquarters in Washington.

Why does the IG report conceal the fact that so many employees left USAID South Africa early, and why does USAID ignore the substantial expenditure of taxpayer dollars implied by such wasteful personnel practices? The high cost of excessive staff turnover and the expense of multiple international reassignments represents an extravagant use of foreign assistance funds, not to mention a cavalier disregard for the well-being of staff.

My own experience is also instructive.

I arrived in South Africa in November 1991 with an unblemished performance record. While in Pretoria, I served as a private sector officer, reporting to a senior Foreign Service officer, Harry Johnson. Mr. Johnson, now retired in Durban, South Africa, had 29 years of distinguished government service. Our division administered grants and contracts to organizations assisting business development efforts in the disadvantaged communities of the country. The approximate size of these programs was \$60 million over 10 years.

I received outstanding performance evaluations for my work in South Africa through March 1994. I was recommended for promotion five times by my supervisors and received a meritorious honor award, signed by Ambassador Princeton Lyman and senior Africa Bureau officials, in early 1994 for my work in 1993. I received two written commendations for my role in the visit to South Africa by the late Secretary of Commerce, Mr. Ron Brown.

On occasion, I took issue with USAID practices that I believed were inconsistent with good judgment, sound practice and written regulation. My motivations, however, were always consistent with our stated goal of hastening the demise of apartheid and preparing disadvantaged South Africans for a new, nonracial South Africa. I was very proud to support this objective.

In spite of my good performance record, I was notified by Mr. Dean on February 7, 1994, that my assignment was to be curtailed.

On that very same day, a cable announcing all worldwide job assignments was received from Washington, advertising my job as available. Dean provided no specific rationale or written reason for his transfer decision at the time. He failed to provide me with any such written explanation for almost 6 weeks. My two immediate supervisors were not consulted, advised or previously aware of Dean's decision to transfer me. Both of my supervisors wrote memos of protest concerning Dean's decision.

On February 22nd, 1994, I filed an administrative grievance. I charged my assignment was curtailed because of my opposition to policies and mismanagement which I believed were illegal and irresponsible. USAID never provided any substantive response to my grievance and I was transferred to Washington in June 1994.

My subsequent assignment in Washington entailed little or no responsibility. As I pursued my legal efforts, I was made the target of retaliation by USAID managers. My office chief reports he was instructed by the USAID director of personnel, Frank Almaguer, to do what was necessary to have me fired. In spite of a satisfactory job evaluation during this time, USAID officials misused their personnel system to unfairly down-grade my performance, threatening my dismissal.

Attempts to obtain documents for my legal case through the USAID Freedom of Information Act office, then headed by Mr. Gatti, were stymied by year-long delays and absurd bureaucratic double-talk. I was referred to the IG on bizarre charges. Mr. Dean also falsely alleged to IG investigators that I was offered a bribe by a USAID contractor. USAID managers suggested I seek counseling with the agency's social worker and Mr. Atwood referred to me in public as a "so-called whistleblower". My legal bills began to mount.

Frustrated and ignored from within USAID, I pursued my case while seeking bipartisan congressional oversight attention. I also sought whistleblower protection with the U.S. Office of the Special Counsel. It was this exposure, and not any willingness on the part of USAID to do the right thing, which finally compelled agency officials to take my complaints seriously.

On April 23, 1996, the USAID Assistant Administrator for Management, Larry Byrne, signed a settlement agreement which pays me compensatory damages and legal fees of \$133,500. USAID agrees to provide me 5½ months of paid leave, to expunge prejudicial information from my performance file, and to write me a letter of commendation.

The settlement agreement also stipulates that a notice against racial discrimination will be posted at the USAID office in Pretoria, South Africa.

Finally, the agreement requires my resignation from the Foreign Service, which will take effect on approximately November 6, 1996. USAID also insisted upon a confidentiality clause requiring my silence about the settlement terms.

Mr. Chairman, USAID tried to make me the issue in this matter, but I am beside the point, merely a messenger, someone who spoke up, and fought back.

After hiding their mismanagement for over 2 years, USAID finally admits to questionable decisions and practices by placing

blame on its fast-growing South Africa program budget and the enthusiasm of the mission.

USAID resorts to suspect statistics showing it does not pursue an exclusive approach to contracting, in effect, implying that part-time discrimination in the new, nonracial South Africa is somehow justified.

USAID seeks to discount the serious problems uncovered in South Africa, as if there were some de minimis standard they could apply in matters of ethics, accountability, and truth.

No, the examples presented in my testimony are not isolated events. They are indicative of an ethos whose guiding principles are careerism and political expediency, rather than ethics and moral courage. It was legitimate, Mr. Chairman, for you to recently describe similar conduct as a breach of faith, because that is exactly what this is.

As for the reengineering now underway at the agency, former U.S. Attorney General, Elliott Richardson, could have been describing USAID when he said that what was needed were not more arcane rules and complex systems, but to somehow instill in us that it is normal, indeed honorable, to stand up, to fight back, and to refuse to participate in what we clearly know to be wrong.

Until that time, ladies and gentlemen, contemptible government bureaucrats may seize our careers, but they will never touch our self-respect. Thank you.

Chairman GILMAN. Thank you, Mr. Neifert, for your courageous statement. Mr. Neifert, in your statement you noted that you agreed to end your Foreign Service career, drop all charges against USAID in return for \$100,000 for you, \$33,500 for your attorney, sick leave and 4 months severance that will keep you on the USAID payroll until November. In these times of cuts in the Foreign Assistance Program, do you think that this was an appropriate use of these funds?

Mr. NEIFERT. No, I don't. Had USAID officials dealt with this problem when it became known to them, none of this would have happened. It was entirely avoidable. But because they refused to deal with the issues at hand, and they subsequently engaged in a cover-up, it resulted in what we have here today.

Chairman GILMAN. Now, Mr. Neifert, I note that USAID is currently going through a reduction in force, and on the average it costs \$70,000 to employ a USAID employee in Washington. That means that rather than deal with the problems you outline, USAID would rather lay off two or three USAID employees rather than solve the problems you outlined.

Do you feel that that accurately reflects USAID's priorities in this case?

Mr. NEIFERT. Yes, I guess it must. I can't really comment too much about USAID's motives in this matter, but I think it is a telling statement that they would make a settlement of this nature.

Chairman GILMAN. I have also been informed that your two superiors, Assistant Administrator Hicks and Mission Director Dean, have been promoted; is that accurate?

Mr. NEIFERT. That is my understanding. Assistant Administrator Hicks has recently been nominated to be the ambassador to Eritrea. Mr. Dean has been nominated to be the assistant adminis-

trator of the Africa Bureau, and all of the others who participated in this matter have all received promotions as well. It is almost to the number. Every one of them have all received honors of some sort or monetary promotions, and again, it is another one of the ironies of this whole thing that after such poor performance they would all get promoted.

Chairman GILMAN. Mr. Neifert, I understand that you were still at the South African Mission in January 1994 when Brian Atwood, the USAID Administrator, came to South Africa. During that trip, the mission took Mr. Atwood to the Finetown Clinic, and that he cut a ribbon there, heard a choir sing, and I understand that USAID had twice refused to fund that clinic. It never received funds from USAID.

Can you describe for the committee that visit to the Potemkin Clinic and please describe the history of that particular clinic's relationship with the USAID and what the reaction of the community was to Mr. Atwood's visit?

Mr. NEIFERT. Yes.

Chairman GILMAN. You may refer to the photo on the right.

Mr. NEIFERT. Right. That is a picture of Mr. Atwood at the time of his visit to South Africa in January 1994. At that time there was extreme polarization in the mission. There was a lot of tension. Again, instead of dealing with it, when Mr. Atwood and his Africa Bureau staff came out, they tried to isolate him from those people in the mission, and there were a considerable number of them who took objection to what USAID was doing in South Africa. So they kept all of us away from Mr. Atwood and his staff, and instead, persons who were less experienced got involved in his schedule and were assigned responsibility for determining his agenda while he was in South Africa.

One visit to a human rights project was arranged in a community disadvantaged by apartheid. It was rejected at the last minute because their surroundings were deemed insufficiently squalid, and an adjacent informal squatter settlement was selected instead to lay a cornerstone at a community center erected by the residents.

Unknown for Mr. Atwood, however, was the fact that USAID had previously rejected requests from the group for funds to build this very same community center. USAID had absolutely no involvement with the residents or the community center which Mr. Atwood was recognizing with his presence.

The original community with the human rights project which USAID had been supporting for several years was livid when they learned they had been rejected at the very last minute for unexplained reasons. Meanwhile, some members of the squatter community were left wondering why so many photographs were being taken, as shown by pictures in the USAID newsletter there, of a smiling Brian Atwood in an impoverished schoolroom, while Mr. Dean and Mr. Hicks beam in the background. One USAID employee said that it was the most cynical exercise he had ever been through.

Chairman GILMAN. As a member of the private sector division in South Africa, you were involved in the implementation of the grant to the Soft Sheen Foundation. That foundation is associated with the Soft Sheen Corporation, a very successful Chicago-based hair

care company that operates around the world. USAID granted that company \$300,000 to run a hair care school in a wealthy suburb of Pretoria. Can you tell us what the results were of that grant?

Mr. NEIFERT. Yes. Against the objections of its technical staff, Mr. Dean insisted our division provide an initial \$300,000 sole-source grant to a nonprofit spinoff of a Chicago-based hair care company called Soft Sheen. The grant which sought to promote the growth of small businesses in the disadvantaged townships by imparting knowledge of the latest techniques in hair care, using Soft Sheen Products, was one of the first concrete examples of Mr. Dean's program judgment. Soft Sheen was one of several American companies involved in the sale, distribution, or manufacture of hair care products in the South African market. It was, however, the only company to benefit from grant support.

No one in our division was supportive of this grant proposal. An equivalent amount of money, it was noted, could keep ten or more human rights groups operating for months. After 1 year of operation, the grant had produced no measurable results. The company's representative had managed to alienate countless community leaders and was later relieved of his duties. There was little else to report.

USAID Assistant Administrator Jill Buckley later wrote Senators William Cohen and George Mitchell to inform them that "400 disadvantaged South Africans will be trained in hair care skills, facilitating the establishment of 100 businesses." Investigators later determined the Soft Sheen project had placed only five people in hair care-related jobs. That works out to be \$60,000 per job created.

Chairman GILMAN. Thank you, Mr. Neifert.

Mr. Hamilton.

Mr. HAMILTON. Thank you, Mr. Chairman.

Mr. Neifert, I was reading through your statement and the language is really quite extraordinary throughout it. You use terms such as unconscionable dereliction of responsibility, tragic unraveling of a once effective foreign assistance program, shredding of our country's honor, coverup, concealment, cavalier disregard of well-being of staff. It is really about the toughest, strongest criticism I think I have ever seen directed at a government agency.

Mr. Chairman, I wonder if I might ask, I notice several USAID people here. Could they tell me how they at this point plan to respond to this type of criticism and under what circumstances? Can they only do it if a subpoena is issued, or what is the situation here?

Chairman GILMAN. Would you please identify yourself and proceed to the microphone?

Ms. BUCKLEY. I am Assistant Administrator for Legislative and Public Affairs at USAID; my name is Jill Buckley.

We had, as you know, Mr. Chairman, asked that a representative from USAID be subpoenaed to appear simultaneously here with Mr. Neifert. Since that is not possible, we would welcome the opportunity to have a witness subpoenaed at some future date, as you have suggested that you will do, to respond to any or all of Mr. Neifert's charges.

Chairman GILMAN. If I might just interrupt a moment.

Mr. HAMILTON. Sure.

Chairman GILMAN. What is the necessity for subpoenaing you? We will be pleased to do that if you feel there is a necessity, but I don't understand what the necessity would be for USAID to be subpoenaed.

Ms. BUCKLEY. Mr. Chairman, our lawyers advise us that if we are to be able to talk about the range of things that Mr. Neifert has talked about, including the settlement that Mr. Neifert and USAID have, it would be necessary for you to call our witness under subpoena. Otherwise, we would be unable to discuss the terms and the conditions of the settlement and the negotiations leading up to the settlement.

Given Mr. Neifert's testimony, we would very much like to discuss things involving this settlement at the time that you would call a witness from USAID, and that would require a subpoena, according to our lawyers.

Chairman GILMAN. Well, if the agency feels that a subpoena is required, we will be pleased to pursue that avenue.

Ms. BUCKLEY. Thank you, Mr. Chairman.

Mr. HAMILTON. Well, I thank the Chairman for that. Mr. Neifert, did you discuss any aspect of your settlement with Members of Congress or committee staff prior to the issuance of the subpoena?

Mr. NEIFERT. No, I did not, except to the extent to say that I could not discuss the terms of the settlement.

Mr. HAMILTON. So there was no discussion of any kind with any Members, with any committee staff, about how you might respond in the event of a committee subpoena?

Mr. NEIFERT. No.

Mr. HAMILTON. Before that subpoena was issued.

Mr. NEIFERT. Correct.

Mr. HAMILTON. Now, you were aware, of course, when you signed the agreement that a subpoena would permit you to make public disclosures; were you not?

Mr. NEIFERT. Yes.

Mr. HAMILTON. And that was the only—well, not the only way, but I guess a principal way in which you could get your story out; is that correct?

Mr. NEIFERT. Yes.

Mr. HAMILTON. I made a statement in my opening statement that I thought that things had gone pretty well in South Africa, and that the mission there was now in good shape.

What is your reaction to all of that? I know you have had some difficulties here, but do you think things have worked through so that the mission is now in pretty good shape?

Mr. NEIFERT. Well, no, because one of the principal players in this whole controversy is Mr. Dean and Mr. Dean is still at post. I understand he is going to be leaving soon, but this insistence—excuse me, this refusal to discipline, or at least to sanction this person for what happened in South Africa, I find very strange, after 2 years. USAID knew about these allegations, it has investigated them ad nauseam, but I think the message that this sends is that USAID refuses to get its own house in order, it sends the message to South Africans and Americans alike that this behavior is condoned.

Mr. HAMILTON. But do all of these very tough words that you used to describe the USAID mission in South Africa still apply as of today in South Africa? Is there still bad management? Is there still waste, fraud, and abuse? Is there still institutional coverup? I mean, are all of these things ongoing?

Mr. NEIFERT. Well, with regard to the IG investigation, I think the two points that I raised, that how could the IG do an investigation of contracting practices, yet not interview the contracting officer, indicates continuing problems.

Mr. HAMILTON. I understand that. I know that—I don't want to get into the question of difficulties in the past. I am trying to get your impression of what the situation is right now, as best you know.

Mr. NEIFERT. To be fair, I can't comment at length about what the situation is in the mission at this time. I have heard reports that the deputy director out there now, Henry Reynolds, is doing a good job and that the morale in the mission has improved somewhat.

Mr. HAMILTON. Do you think your behavior while you were in South Africa in any way contributed to this situation that developed? I mean, your criticism throughout your statement is very much a criticism of USAID people and their conduct and their lack of good practices. Did your behavior contribute in any way to the situation? Were you ever reprimanded? You talked about having an unblemished record, for example, up until a certain time. Did your behavior contribute to any of the problems?

Mr. NEIFERT. Well, it is a complicated story. When USAID managers unveiled this new policy in late 1992, I stood up and took exception to what they were proposing. I was immediately sort of slapped on the hand and viewed as disloyal. When I continued to complain in ways that I considered professional, I was ostracized, I was ignored. And so consequently, my appeals to be heard, for mission management to respond to my complaints, kept being ignored. And so consequently, yes, my dissent became louder as time went on.

But you have to understand, I was convinced that what these managers were doing in South Africa was clearly contrary to why we were in that country. They were engaging in what I believed were acts of racial discrimination, and how ironic, here we were in South Africa to combat apartheid.

Mr. HAMILTON. Well, at what point in time did you have this break with the management of USAID? You indicated your strong disapproval to them of the way they were handling the program. When did that occur?

Mr. NEIFERT. Well, I made my first statement, a public statement at a retreat that was held in, I believe it was October 1992 in which Mr. Dean and other senior Africa Bureau officials attended.

Mr. HAMILTON. And then from that point on, you continued to make these statements of criticism; is that correct?

Mr. NEIFERT. That is right, yes.

Mr. HAMILTON. And throughout that period, then, the relationship between you and your superiors at USAID became more and more difficult?

Mr. NEIFERT. Well, I guess you could say that. I didn't really view it so at the time. I guess the difficulty that we were having hit home when at one point Mr. Dean ordered his executive officer to come into my office and seal my window, because they didn't like that I had my window open, and it was a bizarre attempt to discipline me in a way which indicated that they took exception to my objections.

I became angry when that happened, and perhaps I overreacted. Mr. Dean at the time wrote me a letter, a very vague and unspecific letter, about my reaction at the time, and after that time, there was not another incident which I was asked to stop my dissent or my alleged misbehavior.

Mr. HAMILTON. Mr. Chairman, I appreciate your tolerance. This will be my last question.

The language of your statement is just so extraordinary and so harsh in its condemnation of the program in South Africa. Are you aware of any other groups or individuals who share the depth of your criticism? I wouldn't expect it to come from USAID, obviously, but I am trying to get some independent confirmation of your criticism.

Mr. NEIFERT. Sure. Mr. Hamilton, as I mentioned in my statement, I have here about 17 or more statements made by USAID employees, and I think if someone took the time to look at these carefully, and I have provided some of them to your staff and to the majority staff, there are some pretty compelling statements here.

What a lot of these people are saying is heartfelt and is a criticism of a mismanaged state of affairs in South Africa. While I realize I am not the most objective person, these statements offer objective testimony by many others. And I think it is compelling.

Chairman GILMAN. Mr. Kim.

Mr. KIM. I would like to make a motion that all of the documents, including his statement about the 17 additional employees, such a statement that he referred to as witness testimony be incorporated into the official record.¹

Chairman GILMAN. Without objection.

Mr. HAMILTON. Thank you, Mr. Kim.

Chairman GILMAN. Mr. Ballenger.

Mr. BALLENGER. Thank you, Mr. Chairman.

Mr. Neifert, I am a businessman who has people working for me, and I have always felt that a successful business is one that is run on the basis of having employees underneath that are willing to tell you what the truth is, and if you aren't willing to recognize what the truth is, sooner or later you are going to lose your ability to compete in this world.

But let me ask a question. I understand that USAID sent a management team to the South African mission in 1994 and the leader of this team, Mr. Peter Askins, was later interviewed by the staff of the IG and he told the IG staff that upon his return to Washington, he briefed Brian Atwood and other top officials on his findings. The IG staff notes indicate that at that meeting that Mr. Larry

¹ The abovementioned documents are available through the committee.

Byrne, Assistant Administrator for Management, was concerned about whether to pull mission director, Cap Dean, out now or later.

Do you think that the problems you have identified could have been solved if Mr. Dean had been pulled out at that time?

Mr. NEIFERT. I think a large measure of this whole controversy would have been avoided, yes. But again, I think there was an agenda here that went far beyond Mr. Dean.

Mr. Dean is the type of manager, in my opinion, that was acting on the orders of his superiors. But I don't travel in those circles and I don't know where these orders came from. But they came from beyond Mr. Dean, perhaps beyond Mr. Hicks, and even Mr. Atwood. But that is just conjecture on my part.

Mr. BALLENGER. Right. In other words, substantially higher than your pay grade?

Mr. NEIFERT. Exactly.

Mr. BALLENGER. Let me ask you a question. You understand that Mr. Dean is going to be promoted to ambassador to Eritrea?

Mr. NEIFERT. No. That is Assistant Administrator for Africa, John Hicks.

Mr. BALLENGER. Mr. Dean is getting promoted, you said?

Mr. NEIFERT. Yes.

Mr. BALLENGER. I see a head shaking behind you there. Pardon me. I think she disagrees, and I guess I can't even ask her the question. But you think he is being promoted?

Mr. NEIFERT. Well, he is moving from mission director of South Africa to what I have heard his position is going to be called Deputy Assistant Administrator for Africa in charge of Western Africa affairs, something like that.

Mr. BALLENGER. Mr. Chairman, may I ask the lady in the back if she disagrees with me?

Chairman GILMAN. Ms. Buckley, would you take the microphone again, reintroduce yourself for purposes of the record.

Ms. BUCKLEY. Jill Buckley, Assistant Administrator for USAID.

I believe that Mr. Dean is not being promoted. His job will be the Deputy Assistant Administrator for West Africa. That is commensurate with his skills and level, but not considered a promotion.

Mr. BALLENGER. As far as pay grade, is it the same?

Ms. BUCKLEY. It is the same pay grade, I am told.

Chairman GILMAN. Thank you.

Mr. BALLENGER. It sounds to me like they are shoving him aside, getting him out of the way, I would guess.

Thank you, Mr. Chairman.

Chairman GILMAN. Thank you, Mr. Ballenger. Mr. Payne.

Mr. PAYNE. Thank you very much.

Mr. Neifert, how long were you in the South African Embassy? What years did you serve?

Mr. NEIFERT. I arrived in Pretoria in November 1991 and left in June 1994, almost 2½ years.

Mr. PAYNE. And during that time, I guess there were a lot of changes, because you came in under—that was before the elections, right, and you were under the current regime; is that correct?

Mr. NEIFERT. That is correct.

Mr. PAYNE. And I guess you were dealing with authorities from South Africa who were white authorities because you were still

under the apartheid government, and dealings with official government-to-government primarily were white individuals, although at the time I understand that USAID was dealing with community groups that reflected some of the minority people, correct?

Mr. NEIFERT. Well, not exactly, no. USAID at that time had no dealings with the South African Government. It was custom for us not to have any dealings with the government and we dealt with those groups disadvantaged by apartheid, which was a requirement of the comprehensive anti-apartheid act.

Mr. PAYNE. OK. Now, you talk about the Soft Sheen situation. Now, what was it that you said you opposed about the project?

Mr. NEIFERT. Well, at the time, the country was on the verge of a civil war. There were threats of violence, not just against Americans in South Africa, but against South Africans themselves. The country was threatened by an eruption of a civil war. And it just seemed to me, and to a number of others in the mission, that this kind of an expense seemed frivolous, and that it would be misinterpreted if it came to light that we were funding this kind of activity during a time of such incredible social upheaval in South Africa.

I think, ultimately, that the idea is a good one. It would support small disadvantaged businesses to get started and then to prosper. But at the time it was just a bad choice.

Mr. PAYNE. You know, I can see, too, where in listening to your statement, as Mr. Hamilton brought out, you use a lot of extreme terms, and you are talking about a situation in 1992 and 1993 where in your opinion South Africa was on the verge of a civil war.

Now, I visited there. I wasn't living there, like you, but I went to South Africa a number of times during that entire period, and there was the question of the third force that the Judgestone organization finally did determine that the military was creating the problem between ANC and Inkatha. It was clear that, you know, some of the paramilitary policemen were responsible for some of the killings, that these groups were paying these to keep clashes going between Inkatha and, of course, the main slaughter at the hostel where the police didn't get there until much later and couldn't find any perpetrators.

Now, we were all aware of a lot of the civil strife that was going on. But in your opinion, you actually felt that South Africa was going to explode into a civil war; I mean, it would just explode. That is how you felt, and therefore, you are saying that they shouldn't have done a project of this nature. And the project becomes almost secondary.

But you know, your judgment now is what seems to be a little alarming to me, after listening to and reading your testimony. You actually felt, and you are about the only person I have met yet, even white South Africans who we were meeting with out of South Africa, about the only one I ever heard say that in 1992 you honestly felt that there was going to be this grave civil war. Maybe just give me a little insight, because I am questioning the expansion of your thought process to have these enormous, gigantic notions, as your writing shows, but just in general. I am a little confused. Tell me a little bit about this civil war.

Mr. NEIFERT. Well, there was a lot of uncertainty in the country at the time. It was clear that movement was being made toward

some sort of agreement among the parties, but it was unclear. Nobody knew.

Mr. PAYNE. But unclear and uncertain to the point—I know no one knew, but I think it is just—and I am glad that you got reassigned at the time. It just seems that the judgment that in your heart you thought that this project was wrong because we had to keep the civil war from coming when most people at that time were talking about the post-apartheid South Africa—most people were feeling it was going to work. We felt it was nonreversible. Most people were talking about what will happen in the future, and for women to be empowered, it may seem frivolous to maybe white males, but it was, as a matter of fact, the first black was a woman named Walker. She was down in Texas and she sold hair products and did a lot of hair stuff, because a lot of women like to make themselves look more attractive, regardless of whether they are in South Africa in a poverty-stricken place or whether they are on Madison Avenue, New York, and even men, too, you know.

So my question is that if you are talking about empowerment, if you are talking about—even in this country much of the wealth from African American women had been because of small beauty salons. I can't see where you would think that this was the most ridiculous thing because of the oncoming civil war, and so once again, there possibly could have been other projects, but if you are looking at a particular microeconomic, something that doesn't cost much to run, something that everyone wants to grab on to, and I don't know the details of the contract, but to me it kind of makes sense, as a matter of fact, coming from my perspective. So one thing, we definitely see things certainly from different perspectives. It is not a question.

Mr. NEIFERT. May I respond to that?

Mr. PAYNE. Sure.

Mr. NEIFERT. As in business, professionals who are on the ground are being paid to provide their professional and technical judgment. It was my professional and technical judgment that this grant was a bad idea, and I think the results have proven my judgment correct.

Chairman GILMAN. The gentleman's time has expired. Mr. Kim.

Mr. KIM. Thank you, Mr. Chairman.

I have two questions, but let me get this thing straight. I understand you have expressed your objection on certain policies, and since then you have been demoted, retaliated against, and your family has gone through tremendous hardship during this time. You made some kind of deal saying that you have to leave the Agency, and tomorrow is your last day.

Having said that, I have an article in here from the L.A. Times. Let me read it to you. It says, the USAID gave a \$300,000 grant to a company to teach African American hair care techniques to South Africans. That is not the issue, whether they can look like they have Madison Avenue style. That isn't the issue. The issue is, this grant was awarded on a noncompetitive basis, over the objections of many experienced USAID officials in South Africa. They said it was a joke.

My first question to you is, can you name a couple more jokes, other specific examples of this kind of misguided questionable behavior referred to as jokes?

Mr. NEIFERT. I think there are a number of instances in South Africa where bad judgment was used by management. It is quite a long list. I don't know how much time you have here today, but I would refer members to the IG reports.

Mr. KIM. Thank you. Obviously, we just don't have enough time to list them all.

My second question to you is that you truly believe that there are dozens and dozens of other examples of waste and abuse that have gone unreported by dedicated Federal employees who fear retaliation in addition to the 17 employees you mentioned?

Mr. NEIFERT. I think that in USAID today a lot of employees are fearful. There is a culture of going along and getting along. That is how people get promoted in USAID today. If you raise your hand, if you stick your head up, you get it chopped off. And consequently, there is a culture in USAID today which rewards blind careerism. This has created an institution, in my view, which is fatally flawed and needs to be reformed.

Mr. KIM. Mr. Chairman, it is not easy, a young man like him to come to a congressional hearing and testify to the truth. I admire your courage.

Mr. Chairman, I thank you for conducting this hearing. It is important. I think we have to get to the bottom of this. Thank you, Mr. Chairman.

Chairman GILMAN. Thank you, Mr. Kim. Mr. Hastings.

Mr. HASTINGS. I thank you, Mr. Chairman.

Mr. Chairman, just so that I am on track with the ranking member who put the question that caused Ms. Buckley's response regarding the need for USAID to be subpoenaed, there is a provision in this contract on page 5 that says the following: In the event that the parties are asked by any person or entity about this agreement or the status or disposition of any of Mr. Neifert's claims, allegations, or charges against the Agency, other than as set forth in the preceding sentence, the parties, and I would assume that to be USAID and Mr. Neifert, agree to respond only by stating that the dispute has been settled and that the terms of the settlement are confidential.

If that is the case, then if I were advising USAID, I would advise them not to make any such statements. My question to you, Mr. Neifert, is did Mr. Powell, your attorney, say to you that you, too, should honor this agreement?

Mr. NEIFERT. Absolutely.

Mr. HASTINGS. Do you feel that your testimony here today notwithstanding the fact that it is under subpoena is a breach of this contract?

Mr. NEIFERT. Absolutely not.

Mr. HASTINGS. Why?

Mr. NEIFERT. The settlement agreement allows me to provide testimony if called under subpoena or court order.

Mr. HASTINGS. What do you interpret the language to mean, responding only by stating that the dispute has been settled, to mean?

Mr. NEIFERT. I am sorry, I don't understand the question.

Mr. HASTINGS. You understand the contract that you signed. I say, what did you mean—what do you understand—the parties agree to respond only by stating that the dispute has been settled, that is whether a subpoena has been issued, or not?

Mr. NEIFERT. That is not my understanding. If the subpoena is issued, I am allowed to disclose the terms of the settlement.

Mr. HASTINGS. I think you are going to at some point need to talk again with Mr. Powell.

But let me ask you just a couple of other very quick questions. Did you discuss any aspect of your settlement with members of the committee staff prior to the issuance of the subpoena?

Mr. NEIFERT. I think I have already answered that question.

Mr. HASTINGS. What was your answer?

Mr. NEIFERT. No.

Mr. HASTINGS. I am going to remind you you are under oath.

Mr. NEIFERT. Except to the extent, as I revealed to Mr. Hamilton, that I could not reveal the terms of the settlement without a court order or subpoena.

Mr. HASTINGS. Did you have any discussions at all with members or committee staff between the date that you signed the agreement and the date that the subpoena was issued?

Mr. NEIFERT. Did I have any discussions?

Mr. HASTINGS. Yes.

Mr. NEIFERT. I would imagine I did, yes.

Mr. HASTINGS. If so, with whom did you speak and what were the topics?

Chairman GILMAN. If I might interrupt a moment, Mr. Neifert is appearing before the committee under subpoena. He is not, however, accompanied by an attorney, although I understand he has received the advice of counsel throughout the process.

The Chair would like to advise the witness that he has certain rights under the rules of the House and this committee and under the Constitution, including the right not to answer any question, the answer of which could tend to incriminate him. If the witness would like to take the opportunity at some point during the time he is being interrogated by members of the committee to consult with his attorney by telephone, he would be afforded that opportunity.

Mr. HASTINGS. I put my question to you again, Mr. Neifert.

Mr. NEIFERT. Yes. I may have had discussions both with majority and minority staff members.

Mr. HASTINGS. Did you have any discussions with members of committee staff about how you might respond should the committee issue a subpoena before the subpoena was issued?

Mr. NEIFERT. I don't recall.

Mr. HASTINGS. How, then, is it that you had candid responses to Mr. Gilman's questions to you? He put a question to you that he read; you read the answer, and you did that on two occasions. How do you come to do that?

Mr. NEIFERT. I was provided a list of some of the questions that might be asked today.

Mr. HASTINGS. In other words, that you did have some indication as to what was going on.

Mr. NEIFERT. Well, I told you that I did.

Mr. HASTINGS. All right.

Let me go into another line of inquiry, because this gets a little personal. You said in a South African newspaper, *Business Day*, and I quote you. "Obfuscated by rhetoric which falsely portrays South Africa's disadvantaged majority as beneficiaries of U.S. largesse, the USAID program instead wastes enormous time, energy, and treasure on gerrymandered efforts to reward black U.S. political supporters of the Clinton administration, not to mention the Congressional Black Caucus."

In the interest of time, I am not going to read the rest. You know what you said.

The question that I put to you is, I am a member of the Congressional Black Caucus. I know at least 10 percent of the people at the USAID agency, and I have never asked them at any time in my life to do anything on behalf of me, hire anybody or anything else, and I think I speak very clearly for the great majority of members of the Black Caucus.

How then do you say that the Black Caucus, and you are talking about 37 individuals, do you think it is fair when you make that kind of indictment, sir, against a group of people who you have no knowledge of what they may do at a given time?

Mr. NEIFERT. Well, let's back up a little bit. I was asked before about activities in South Africa which may be questionable. One of the questionable activities was a situation where USAID basically invited a member of the Black Caucus Foundation, Congressional Black Caucus Foundation to come out to South Africa, paid for their trip to South Africa.

Mr. HASTINGS. Who was that person?

Mr. NEIFERT. Who was the person who came—

Mr. HASTINGS. From the Congressional Black Caucus Foundation?

Mr. NEIFERT. I believe it was Beverly Shah.

Mr. HASTINGS. Is Beverly Shah a member of the U.S. Congress and a member of the Black Caucus of the United States Congress?

Mr. NEIFERT. I didn't say she was.

Chairman GILMAN. The gentleman's time has expired.

Mr. HASTINGS. Mr. Chairman, I ask an additional minute by unanimous consent.

Mr. KIM. Objection. Mr. Chairman, I have a question. This article—is that a proper question? Maybe this question can be delayed until later to his attorney.

Mr. HASTINGS. Point of order, Mr. Chairman. What does he mean, is it a proper question?

Chairman GILMAN. If the witness wishes to respond to the question, he may, and I grant the gentleman an additional 1 minute.

Mr. HASTINGS. I thank the Chair.

Now, I am asking you whether Ms. Shah is a member of the U.S. Black Caucus.

Mr. NEIFERT. To my knowledge, she is not.

Mr. HASTINGS. Do you know or have you any knowledge of any Black Caucus member doing what you said in this article?

Mr. NEIFERT. Would you repeat the phrasing?

Mr. HASTINGS. Yes. "Obfuscated by rhetoric, which falsely portrays South Africa's disadvantaged majority as beneficiaries of U.S. largesse. The USAID program instead wastes enormous time, energy, and treasure on gerrymandered efforts to reward black U.S. political supporters of the Clinton administration, not to mention the Congressional Black Caucus."

How has the Congressional Black Caucus, Don Payne, myself, and 35 other members of the Congressional Black Caucus benefited that you would write to Business Week and cast that aspersion about?

Mr. NEIFERT. I can offer no other explanation for what happened in South Africa.

Mr. HASTINGS. I am having difficulty understanding you, Mr. Neifert. You mean that we have some veiled way of going about requiring agencies to undertake to do certain things in South Africa and elsewhere?

Chairman GILMAN. The gentleman's time has expired.

Mr. HASTINGS. I will stay for additional time.

Thank you, Mr. Chairman.

Chairman GILMAN. Mr. Neifert, I have here before me a letter dated July 14, 1995, from Michael D. Sherwin, deputy assistant administrator for management, to Leslie Cap Dean, mission director in South Africa. That letter reads in part, and I quote, "The mission did not comply with the terms and conditions of USAID South African Grants Program agreement memorandum dated July 15, 1994, that we both signed. I am greatly disappointed in the mission's attitude. Furthermore, if you were not going to abide by the agreement terms and conditions, a courtesy call explaining why would have been greatly appreciated. I expect the mission to immediately implement the agreement memorandum terms and conditions."

I understand, Mr. Neifert, that the agreement referred to in this statement required the mission to establish procedures to encourage a competition of grants. Could you describe for the committee the circumstances that led to the 1994 agreement between Mr. Dean and Mr. Sherwin and what caused Mr. Sherwin to claim that the agreement was not being complied with?

Mr. NEIFERT. It was the professional judgment of the contracting officer in the mission at the time, Mr. McAvoy, that grants and contracts were not being administered in ways which were in accordance with regulation, and Mr. McAvoy complained, and he apparently complained quite bitterly about it, necessitating the visit of a procurement visit from Washington which resulted in these letters being produced.

I understand Mr. Dean failed to comply with some of the earlier terms of the agreement with Mr. Sherwin, and that is why this subsequent letter was written in which Mr. Dean was chastised for his failure to comply.

Chairman GILMAN. At this point I am going to ask that the July 14th letter of the USAID agency, signed by Michael Sherwin, be made a part of the record.

[The letter appears in the appendix.]

Chairman GILMAN. If Ms. Buckley would come forward a moment. Again, if you would identify yourself for the record.

Ms. BUCKLEY. Yes. Assistant Administrator for Legislative and Public Affairs, Jill Buckley.

Chairman GILMAN. Ms. Buckley, would USAID, in their opinion, consider that Mr. Neifert violated his settlement agreement by testifying today?

Ms. BUCKLEY. Mr. Chairman, I—

Mr. HASTINGS. Mr. Chairman, point of order. Point of order, Mr. Chairman?

Chairman GILMAN. Would the gentleman state his point of order?

Mr. HASTINGS. Yes, sir. You are asking Ms. Buckley, who is not a lawyer, a legal opinion about whether or not USAID would consider something. Now, you allowed another witness just a minute ago to have their lawyer present. Ms. Buckley has no reason to answer that question whatsoever.

If you want to talk to a lawyer, bring a lawyer in here.

Chairman GILMAN. The gentleman does not state a proper point of order.

What I am asking, if the USAID agency thinks it is a violation, would it also be a violation of USAID to testify under subpoena?

Ms. BUCKLEY. Mr. Chairman, as was just stated, I am not an attorney. I understand that if you were to subpoena a witness from USAID, we would be free to discuss anything involving the provisions of the settlement and all of these other matters.

I am not sure I can answer the question about Mr. Neifert's appearance. Again, I am not a lawyer; I presume Mr. Neifert's—

Chairman GILMAN. Before USAID witnesses are brought before our committee, I would appreciate if your counsel could provide for us a memorandum of opinion as to whether or not the witness who will appear can properly testify under subpoena with regard to the settlement agreement.

Ms. BUCKLEY. Absolutely, Mr. Chairman. We will provide you that.

Chairman GILMAN. Thank you, Ms. Buckley.

Mr. KIM. Mr. Chairman, will you yield just 30 seconds?

Chairman GILMAN. I would be pleased to yield to the gentleman.

Mr. KIM. Miss, can I ask an additional question? I understand that Mr. Neifert was paid \$133,500 to keep silent. I understand that you paid \$100,000 to him, \$33,500 for his attorney. Is that a normal policy? This is taxpayers' money you have spent. Is that an ordinary policy? When somebody raises some question, can you pay them and make a deal to keep them silent?

Ms. BUCKLEY. I think, Congressman Kim, your question illustrates the need to subpoena a witness from USAID who can comment on this settlement. Our attorneys advise me that I cannot answer your question.

Mr. KIM. Thank you, that is fine. Thank you.

Mr. PAYNE. Mr. Chairman, may I ask a question to the witness? Mr. Chairman.

Chairman GILMAN. Well, I am still in my time. I will be pleased to give the gentleman some time.

Mr. PAYNE. But at this point I would like to complete my questioning, Mr. Neifert.

I understand, Mr. Neifert, that nearly all of USAID's programs in South Africa consisted of sole-source, noncompetitive grants that

were funded under unsolicited proposals. You told the committee that many proposals were not actually unsolicited. In some cases, USAID actually paid for proposals that it then funded. In other cases, USAID mission staff wrote proposals which it then funded as unsolicited.

Could you give us more of the details of this process?

Mr. NEIFERT. I would refer staff and members to the IG report which details situations where USAID gave so-called unsolicited grants to groups which, in fact, were not really unsolicited, and those include the Health Systems Trust in South Africa, and the Martin Luther King Center.

Chairman GILMAN. Do you have a series of IG reports with you?

Mr. NEIFERT. I do.

Chairman GILMAN. And how many IG reports do you have?

Mr. NEIFERT. I believe there is a total of five here.

Chairman GILMAN. And they are all with relation to the South African projects?

Mr. NEIFERT. That is correct.

Chairman GILMAN. I am going to ask that these be made a part of the record, without objection.¹

Chairman GILMAN. Mr. Hamilton.

Mr. HAMILTON. Mr. Chairman, I will yield my additional time to Mr. Hastings.

Mr. HASTINGS. I thank the ranking member.

At this time I would like to return to the line of inquiry, but with a different approach to it, Mr. Neifert, that I was offering at the time that my time concluded.

You have made an allegation regarding the dispensation of these contracts, and one of your key claims was that the USAID Mission in South Africa has an Afro-centric policy which translated into working with African Americans to the exclusion of all other Americans.

Now, the figures that we seem to have—and you can correct me if I am in error—show that between fiscal year 1991 and 1995, part of which you were present, as pursuant to your answer to Mr. Payne's question, the share of U.S. grants and contracts to African Americans was as low as 1 percent and never exceeded 29 percent.

It seems to me that the mission worked with a diverse group of Americans. For example, in fiscal year 1995, 64 percent of all contracts went to Caucasians, 5 percent to Hispanics, and 2 percent to women-owned and other minorities, and 29 percent to African Americans.

How do you reconcile these statistics with your accusations that the mission worked exclusively with African Americans?

Mr. NEIFERT. I never said that the mission worked exclusively with African Americans.

Mr. HASTINGS. All right. Then let me ask you, Mr. Neifert, you have indicated how long you were in South Africa. During your tenure there, did you award or recommend award of any non-competitive grants to African American groups?

¹ The abovementioned documents are available through the committee.

Mr. NEIFERT. I have a list of grantees and contractors that I was involved with during my time in South Africa, and I can list them for you if you are interested.

Mr. HASTINGS. How many?

Mr. NEIFERT. These are grantees who we defined as disadvantaged by apartheid, and those groups in the United States were eligible to participate in 8(a) and grant limit set-asides, and the total list here would be 11.

Mr. HASTINGS. How many noncompetitive grants did you award or recommend for African Americans?

Mr. NEIFERT. Well, again, there would be five included in the former group of those South African grantees, and—

Mr. HASTINGS. So the noncompetitiveness of the awards is what I am getting at. You, too, granted awards that were noncompetitive.

Mr. NEIFERT. That was standard operating procedure in the mission.

Mr. HASTINGS. But my point is, you did it.

Mr. NEIFERT. Yes.

Mr. HASTINGS. All right. Now then, Mr. Hamilton asked you earlier about your conduct. Did you take an illegal weapon, a sawed-off shotgun, to South Africa when you went there?

Mr. NEIFERT. I wouldn't call it an illegal weapon, no.

Mr. HASTINGS. A sawed-off shotgun.

Mr. NEIFERT. I think it was a weapon that is normally available to any American here in the United States.

Mr. HASTINGS. Did you write E-mails that you were requested by your superiors, with reference to the nature of those E-mails and the use, the personal use of computers and matters of that kind for your personal undertakings?

Mr. NEIFERT. I am not sure I know what you mean.

Mr. HASTINGS. I could spend some time with you. Let me give you just one E-mail that offended me, and it offended me only in the sense that I don't think any employee ought to put this on.

Did you write on August 17, 1993, to one employee expressing your opinion on a contract of another USAID employee that, "that is a load of F-ing bullshit?"

Mr. NEIFERT. That particular employee was being abused by the management officer, Bruce Gatti.

Mr. HASTINGS. Did you send that E-mail?

Mr. NEIFERT. I did indeed.

Mr. HASTINGS. Did you send other E-mails that you were questioned about, bringing into question your conduct?

Mr. NEIFERT. At one point Mr. Dean's reaction to me was a request to make my messages a little more positive.

Chairman GILMAN. The gentleman's time has expired.

Mr. Payne.

Mr. PAYNE. You said that you felt there was something wrong about, or people being assisted in writing proposals.

Do you think something is wrong with USAID helping a grantee?

Mr. NEIFERT. Well, when the terms of the ultimate grant are justified by saying it is unsolicited, well, then, yes. We can't have it both ways; either it is unsolicited or it is not. If we help them write the proposal, how could it be unsolicited?

Mr. PAYNE. Well, some organizations have less sophistication. You know, if you have a lot of money to pay fancy grant writers, you get—it is just like CDs. If you put down \$1 million, you get a higher rate. If you put down \$10 in a savings account, you get a low rate. I mean that is the way it works. So what is wrong with assisting an organization that could do the job on the ground, and then how could you call it unsolicited?

Mr. NEIFERT. Well, as in the case with CDs, there is a truth-in-lending requirement, and in the case of these kinds of grants, had we up front acknowledged that they were indeed solicited, then perhaps we could have worked with that. But it was a guise for something that it wasn't.

Mr. PAYNE. OK. I was listening to Mr. Kim on this \$133,000 and also the chairman being outraged at taxpayers' money. Do you know of any other—it is unfortunate to bash the State Department. We probably take a bunch of them. But have you ever heard of the State Department having any other kind of suits, maybe class action suits, maybe suits by women or suits by minorities?

As a matter of fact, I am really amazed at how much—you are a very important person, I guess, to the committee, because this is a tremendous amount of time. I have heard of class action suits that are still going on now with the State Department that would make this little \$133,000 look like child's play.

Do you know of any ongoing State Department class action suits by black State Department employees, or, to your knowledge, do you know of any other payments made out? Since this outrage of this \$133,000 is so prominent here, it must be the first time the State Department or USAID has paid a grant to a person. Have you heard of any—I mean I know it is not your bailiwick, but you seem to know a lot.

Mr. NEIFERT. I am not sure what the question is, but I am aware, generally speaking, that there have been class action suits brought by employees against the State Department, for example. I am not aware of what those amounts are.

Mr. PAYNE. Let me tell you, and maybe also for Mr. Kim; he is new to the committee. The history is that this is small. You should hear of the suits, not only State Department, Commerce Department, Department of Defense, and hundreds of millions of dollars have been paid out probably in different kinds of settlements because racial discrimination has been a way of the Federal Government.

As a matter of fact, even Asian Americans have run into discrimination, African Americans, and others. So this isn't the first time that our U.S. Government, regardless of the agency, have had a settlement. But to have a full committee hearing, full-blown, to talk about how outrageous these taxpayers' dollars are—and I don't like to see taxpayers' dollars wasted either, but I just think that, once again, we have—

Mr. KIM. Will the gentleman yield?

Mr. PAYNE. Yes.

Mr. KIM. This is not really a racial discrimination issue, it is just to keep him silent, pay him so much money to keep his mouth shut. That bothers me.

Mr. PAYNE. I think it goes beyond that. I read that he was being discriminated against because of his views and that they wanted some other case of a black that was part of this whole hearing, some African American was hired.

Mr. HASTINGS. Would the gentleman yield?

Mr. PAYNE. Yes, I yield.

Mr. HASTINGS. When you enter into a contract, it is not so much to offer silence. I urge the gentleman from California to recognize that even Congresspeople now are entering into settlement agreements.

This is a standard settlement agreement. There was nothing particularly unique about it. His lawyer was there, USAID's lawyers were there, and over a long period of time they came to this conclusion. It didn't have a damn thing to do with silence.

Mr. PAYNE. Just finally, but I know the contract—just a second—that the Afro Sheen contract was looked at as not being well executed.

Let me just bring to everyone's attention too, we are still buying 20 more B-2 bombers. The cost now is about \$2 billion apiece, according to the amount of money we have spent for B-2s for the number that we have already. So they are not stopping that whole B-2 business because there seem to be some flaws in these contracts.

Chairman GILMAN. The gentleman's time has expired.

Mr. Kim.

Mr. KIM. I have no additional questions. Thank you, Mr. Chairman.

Chairman GILMAN. The mission director, Cap Dean, told the IG that USAID contractor Sherwin now offered you a bribe. He made that accusation months late and refused to provide further details to the IG. I understand the IG is now investigating Dean for making false accusations.

Would you care to comment on that?

Mr. NEIFERT. Well, when I saw the IG report where Mr. Dean had alleged I was offered a bribe by this contractor, I was alarmed and I immediately protested to USAID officials. I believe the contractor in question also made similar protests in order to find out what was going on. I understand that the IG never fully pursued and closed this matter, and I understand now, because of continuing questions from Members of Congress, that the IG has opened an investigation to determine whether or not Mr. Dean made this statement in a malicious fashion.

Chairman GILMAN. Can you review the actual results of the hair-dresser's contract once again for us?

Mr. NEIFERT. I think the final result was, five people ended up in hair-care-related jobs, and if you divide that into \$300,000, that is \$60,000 per job created.

Chairman GILMAN. What was the total contract?

Mr. NEIFERT. It was a proposal for a total of \$500,000. Apparently they only got \$300,000.

Chairman GILMAN. And how long a term did the contract run for?

Mr. NEIFERT. I believe it was—I am just guessing—2 years or so.

Chairman GILMAN. Did the contractor fulfill his full 2-year term?

Mr. NEIFERT. I am not certain.

Chairman GILMAN. Do you know how many people that he actually enrolled?

Mr. NEIFERT. I am not certain about that, no.

Chairman GILMAN. Mr. Hastings.

Mr. HASTINGS. Mr. Chairman, I am aware that the hearing is about to come to a conclusion, and I appreciate very much the Chair's indulgence in that regard.

I was reading through additional statements that were made by Mr. Neifert, and I merely wish to offer, it is a very bad thing to take a broad-brush approach to saying something that you have no documentation of.

For example, Mr. Neifert says in his prepared statement that last-minute contract cancellations alienated influential South Africans. Well, without knowing who those influential South Africans are, it is very difficult to determine whether or not there is validity to that.

In another paragraph on page 2 he says, "Related questions about the intrusion of political influence were raised about USAID South Africa awards to the National Democratic Institution, the Martin Luther King Center, the Congressional Black Caucus Foundation, and the International Foundation for Education and Self Help," but he doesn't say what the related questions were, who raised them, and what, if anything, was done about them.

You see, Mr. Chairman, this kind of hearing serves but one purpose, and that is politics, which we are entitled to. That is what we are; we are politics. But Mr. Neifert has a specific agenda that I find anathema, and I think this whole hearing was a waste of my time.

Chairman GILMAN. Do you have any further questions, Mr. Hastings.

Mr. HASTINGS. No.

Chairman GILMAN. We hope that a full examination of the facts surrounding the contentions here will offer this committee a better evaluation of how we have been handling the South African mission and the grants that have been made through the South African mission.

Mr. Neifert, how would you describe morale in the mission during your 2½ years there?

Mr. NEIFERT. It was described in one IG report as the worst one employee had ever seen in his career at USAID.

Chairman GILMAN. Thank you, Mr. Neifert.

Again, we want to thank you for taking the time to appear, for your willingness to set forth the facts regarding your stay at the mission, and with regard to the background on some of the violations. Good luck in your future career.

The committee stands adjourned.

[Whereupon, at 12 noon, the committee was adjourned.]

SUBPOENA OF USAID ASSISTANT ADMINISTRATOR FOR MANAGEMENT, LARRY BYRNE

THURSDAY, JUNE 6, 1996

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, DC.

The committee met, pursuant to notice, at 10:45 a.m. in room 2172, Rayburn House Office Building, the Honorable Benjamin A. Gilman, chairman of the committee, presiding.

Chairman GILMAN. The committee will come to order. Will our members please take our seats. Will our visitors please be seated.

Before starting, we would like to take this opportunity to introduce one of our newest colleagues, Congressman Earl Hilliard of Alabama's Seventh District, replacing Congressman Eliot Engel on our committee.

Mr. Hamilton.

Mr. HAMILTON. Mr. Chairman, thank you very much.

Let me just say on behalf of my colleagues how pleased we are to have Earl Hilliard join us. He represents, I think, the Seventh District, isn't it, Earl—

Mr. HILLIARD. Yes.

Mr. HAMILTON [continuing]. Of Alabama, and my recollection is that that is the same district that John Buchanan represented, a previous member of this committee from Alabama who served with very great distinction. I know that Earl will as well. He has had several terms in the Alabama State legislature, was the first chairman of the Alabama Black Legislative Caucus, and was also a member for a period of time of the Alabama State Senate.

He serves on the Agriculture Committee and Small Business Committee. Are you dropping off Small Business, Earl?

Mr. HILLIARD. Yes.

Mr. HAMILTON. So he dropped Small Business, and he will have International Relations and Agriculture. That is a good combination. We are delighted to have him.

Thank you very much.

Chairman GILMAN. We all join in welcoming Congressman Hilliard.

The Committee on International Relations meets today in open session pursuant to notice to consider a motion authorizing the issuance of a subpoena relating to an official of the Agency for International Development. This session is called due to a request made in correspondence prior to a hearing in which we took testimony of Paul Neifert with reference to his experience in South Africa and

the circumstances under which he was to be separated from the Agency for International Development.

The request was made by the ranking Democratic member, and it was that we take testimony from officials of the Agency for International Development under subpoena. USAID officials believe they cannot testify fully absent a subpoena because of the confidentiality agreement entered into with Mr. Neifert. During that hearing, the request was echoed by the Assistant Administrator for Legislative and Public Affairs, the Honorable Jill Buckley.

Accordingly, we are here to authorize that subpoena. I would note we need to have a majority of the committee present at the time we vote on the motion to be made shortly.

Does the distinguished ranking Democratic member, Mr. Hamilton, have any comments to make at this time?

Mr. HAMILTON. Only to express my appreciation to you, Mr. Chairman, for your excellent cooperation in all of this. I am indebted to you for that, and I appreciate all members who are here today. I know there are many, many things to be done, but I do appreciate their attendance, and I think it will have a positive impact. It is necessary in order to get USAID's testimony.

Thank you for your help, Mr. Chairman.

Chairman GILMAN. Thank you, Mr. Hamilton.

I now turn to the matter of the motion, and I will ask Mr. Bereuter to offer that motion.

Mr. BEREUTER. Mr. Chairman, I move that the chairman be authorized to issue subpoenas to compel the Honorable Larry E. Byrne to appear and testify before the Committee on International Relations.

Chairman GILMAN. As I mentioned earlier, this motion is intended to support a request by the minority and the Administration to explain its side of the discussion during an earlier hearing relating to our assistance program in South Africa in which we took testimony of Mr. Neifert.

This is a friendly subpoena, but it is necessary, in the opinion of USAID, to allow Mr. Byrne to testify freely on his arrangement with Mr. Neifert.

Accordingly I urge the members to vote in support of the motion. Are there any members seeking recognition?

If there is no one asking for recognition, the previous question is ordered.

The question is on the motion of the gentleman from Nebraska. As many as are in favor of the motion signify by saying "aye". Those opposed, "no".

The ayes appear to have it.

Noting that a majority of the committee is present, the Chair rules that the ayes have it. The motion is agreed to.

The committee is now adjourned. Thank you for your attendance. [Whereupon, at 11:12 a.m., the committee was adjourned.]

ADMINISTRATION RESPONSE TO USAID WHISTLEBLOWER, MR. PAUL NEIFERT

TUESDAY, JUNE 18, 1996

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, DC.

The committee met, pursuant to notice, at 10:10 a.m. in room 2172, Rayburn House Office Building, Washington, DC, Hon. Benjamin A. Gilman, chairman of the committee, presiding.

Chairman GILMAN. The hearing will come to order. We are meeting today at the request of our ranking minority member, Mr. Hamilton, who has indicated he is on his way, to take the testimony under subpoena from an Administration witness in response to the testimony of USAID whistleblower Paul Neifert. Members of our committee will remember that Mr. Neifert alleged a pattern of waste, fraud and abuse at USAID's mission in South Africa.

I note that USAID spokesman Jay Byrne was quoted in The Washington Post yesterday as stating that this is the fifth hearing on the Neifert allegations. He called our hearings, and I quote, "an obscene abuse of legislative oversight for political gain".

As a USAID spokesman, Mr. Byrne should get his facts straight. Had he done so, he would have recognized that this is our committee's second hearing following up on the Neifert allegations. This hearing was requested by the USAID Assistant Administrator for Legislation and by Mr. Hamilton. Finally, USAID Administrator Brian Atwood wrote to us on June 4 thanking us for supporting the motion to subpoena Mr. Byrne so that he could respond. Without objection, the Atwood June 4 letter will be included in the record at this point in the record.

Perhaps in the future, Mr. Byrne will check with his superior, Mr. Atwood, before criticizing the Chair for complying with the requests from the Administration and from the minority.

To recap, Mr. Neifert, a former Peace Corps volunteer, is a veteran Foreign Service Officer who previously served in USAID's mission in South Africa before being driven out of the Foreign Service.

Neifert is, and I quote, a "Luso-American" born to American and Brazilian parents, who drew on his international heritage to serve USAID over 10 years in three different African posts.

Our witness today, Mr. Larry Byrne, the USAID Assistant Administrator for Management, summarized as part of the settlement agreement on April 22, 1996, Paul Neifert's services as follows, and I quote:

"In each overseas assignment, Mr. Neifert distinguished himself through uncompromising integrity, rare courage and creative energy, upholding the finest ideals of the American Foreign Service. Mr. Neifert received numerous awards for his meritorious performance, including two career promotions. Mr. Neifert leaves the Foreign Service in good standing, and we regret his departure."

While stationed in South Africa, Mr. Neifert raised concerns about the grant-making procedures and the quality of projects that had been funded by USAID. He cited, for example, concerns about the Soft Sheen International Foundation project in which USAID spent \$300,000 to build a hairdresser's school that was later closed as a failed project.

Mr. Neifert also testified about USAID Administrator Atwood's 1994 visit to Finetown, South Africa, where he laid a brick and cut a ribbon at a Potemkin school which USAID had refused to fund and which was never built.

When Mr. Neifert became a whistleblower, his tour in South Africa was curtailed. Both Congressman Hamilton and Senator Leahy initiated investigations on behalf of Mr. Neifert. In the interim, he was given a make-work assignment in USAID's Washington headquarters. Neifert filed a complaint with USAID. USAID reviewed the complaint and, instead of fighting it, offered Neifert a \$133,000 cash settlement using taxpayer funds in return for his departure from the Foreign Service and his silence regarding the cash settlement.

On May 2, the committee invited Mr. Neifert to testify. He replied that the terms of his agreement prohibited him from discussing it except under subpoena or under court order. Mr. Neifert was otherwise willing to testify before the committee. The committee thereupon subpoenaed Mr. Neifert to testify regarding his taxpayer-funded settlement and past practices of waste and mismanagement at the USAID mission in South Africa.

Then USAID requested the opportunity to testify in response and under their own subpoena. We complied and served Mr. Byrne with a subpoena for today's hearing. I will note that USAID's new general counsel, Singleton McAllister, wrote to our committee confirming that under our subpoena Mr. Byrne should feel free to testify on all aspects of the Neifert case and related issues.

Our committee staff has notified Mr. Byrne that the committee will also take this opportunity of his appearance before the committee to question him about other topics, such as the problems with the Agency's New Management System that were highlighted during our hearing with USAID's IG.

Before swearing our witness, I would like to recognize our ranking minority member, Mr. Hamilton, for any opening statement he may wish to make.

Mr. Hamilton.

Mr. HAMILTON. Mr. Chairman, let me thank you for your cooperation in ensuring that USAID was able to testify today, your support of the subpoena and gathering votes for it. I appreciate it very much.

When Mr. Neifert testified here on May 21, I thought it would be better to have him and USAID testify at the same time. We were not able to work that out. As I recall, Mr. Neifert delivered

a very strong statement with a lot of allegations against USAID, against some of the individuals there and against the Administration's program in South Africa.

I was quite impressed, Mr. Byrne, at that time, by the extraordinary language Mr. Neifert used. I will probably be asking you about some of that in a few minutes, but I gather it struck you, too, because you refer several times to his language in your testimony this morning.

In any event, we now have USAID before us, and we look forward to hearing your testimony in response to Mr. Neifert's testimony.

Mr. Chairman, we thank you again for your cooperation in making this hearing possible.

Chairman GILMAN. Thank you, Mr. Hamilton.

Are there any other members who wish to make an opening statement? Mr. Berman.

If not, I would like to say that we are pleased that USAID Assistant Administrator Larry Byrne has accepted our invitation under subpoena to appear before the committee.

Mr. Byrne, I am advised that many USAID employees, including Mr. Atwood, have wanted you to be subpoenaed before the Congress. Today we are being afforded that opportunity.

Mr. Byrne brings a long career of distinguished government service to his current position. Before serving with USAID, Mr. Byrne served as National Practice Director for the Hay Group. He also served in the White House, Department of Energy, Department of Housing & Urban Development and the United States Civil Service Commission.

Mr. Byrne is also married to our former colleague, Leslie Byrne, the gentlelady from Virginia.

Welcome, Mr. Byrne.

Mr. BYRNE. Thank you.

Chairman GILMAN. If you would stand and raise your right hand?

[Witness sworn.]

Chairman GILMAN. You may summarize your statement. Your prepared statement will be inserted in the record if you wish.

TESTIMONY OF LARRY E. BYRNE, ASSISTANT ADMINISTRATOR FOR MANAGEMENT, UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

Mr. BYRNE. Thank you, Mr. Chairman and members of the committee. I would like to just summarize my statement and to submit it for the record.

Chairman GILMAN. Without objection.

Mr. BYRNE. The opportunity you give us today is one we welcome. The Administrator has already conveyed to you his thanks for offering us an opportunity to try and explain and to hopefully get behind and beyond this case and the problems that have been alleged in South Africa.

We feel that there is a serious problem in the sense that this program in South Africa, in our view, ought to be one that past Administrations, the current Administration, Congress and the American public ought to take great pride in. We believe that the

USAID assistance program in South Africa has been a large-scale success.

The cases in question here are a very small percentage of the total amount of the program that USAID has carried out. We have educated tens of thousands of South Africans. We helped in moving the election process forward. We have done this, we believe, in the best interest of all South Africans.

The questions obviously raised in Mr. Neifert's testimony related to the issue of settlement and why we did what we did. I am the signatory to that settlement, and I did that in this case because I thought it was in the best interest of the government from a cost perspective in terms of settling the multiple cases that Mr. Neifert had.

However, let me point out to you that in being approached by Mr. Neifert's attorney to discuss settlement, I informed his attorney and ultimately his attorney and Mr. Neifert that I fully expected that the Agency would win all of the cases that he had brought against us. However, I felt in the long term interest of the government and under the guidance of the Justice Department and others that settlement should be approached and certainly it is required in EEOC cases that we would negotiate a settlement that was fair to the government.

Let me also say that we did not do this simply because it was in the best financial interest of the government. You have already pointed out Mr. Neifert's service to USAID and to the government. It was my view and remains my view that it was time for Mr. Neifert to have another opportunity and that that was in his own best interest. That I so informed him as we entered the negotiations.

I think that overall the questions that have been raised are ones that have clear and distinct answers, and I appreciate your giving us an opportunity to give those answers today.

Thank you.

[The prepared statement of Mr. Byrne appears in the appendix.]

Chairman GILMAN. Thank you for your testimony. We have several questions.

I understand, Mr. Byrne, in your position you have to approve or disapprove the kind of cash payments to settle disputes like the one you gave to Mr. Neifert. For the record, could you provide the committee with a list of the beneficiaries, summaries of their claims and the amounts of settlements USAID has paid with Federal funds over the last 4 years?

Mr. BYRNE. Mr. Chairman, obviously for the record we will try and provide it. Let me say to you that we do have some significant concerns about this. We will, first of all, have to review all of the settlements to determine the confidentiality of information.

Obviously, one of the reasons we are concerned about this is that the government enters into negotiations hopeful that the information about settlements previously given will not be available to the other side. We also have certain parts of the agreement which are not unilaterally releasable by us. We will have to have our general counsel take a look at all of those cases and get back to you, but we will certainly try and comply with your request.

Chairman GILMAN. If you would be kind enough, Mr. Byrne, to provide whatever information you are able to and any conditions, please set those forth.

Can you tell us, though, in the last 4 years how many settlements there have been?

Mr. BYRNE. How many settlements have been arrived at?

Chairman GILMAN. Yes.

Mr. BYRNE. We have settled about—in the last 3 years when I have been there, we were somewhere in the neighborhood of eight to ten settlements that I have been personally involved in. The total numbers, which I am now given over my shoulder, indicate that in 1993 we did seven and in 1994 five.

All of those settlements would not have necessarily been settlements that I would have had to agree to the funds. Some of them may have been court- or EEOC-imposed settlements. We will get you information on that.

Chairman GILMAN. Any idea what the total amount was that you have expended on these settlements?

Mr. BYRNE. The monetary settlements for 1993, and there are seven actual EEO complaints, eight recipients. The monetary settlement was approximately \$200,000, and the attorney fees were approximately \$107,000. In 1994, there were actually five EEO settlements, total value of approximately \$345,000 in monetary and approximately \$22,000 in attorney fees. In 1995, we have nine EEO settlements, five cases, total amount of approximately \$68,000 in monetary and approximately \$29,000 in attorney fees.

Chairman GILMAN. Have there been any other settlements in 1996 to date?

Mr. BYRNE. Not that I am aware of.

Chairman GILMAN. Thank you.

In the Neifert settlement agreement, you wrote glowing terms about Mr. Neifert's performance. Are you still adhering to those attributes of Mr. Neifert?

Mr. BYRNE. The agreement we negotiated was that Mr. Neifert and his attorney would propose language, which they did. Our lawyers worked with them in working out the language, and I agreed to it.

As part of the overall settlement, we will continue as an agency, if asked in future employment opportunities for Mr. Neifert, which was the primary reason for having the letter, to respond exactly as we have agreed in that letter.

Chairman GILMAN. A USAID management assessment team led by Peter Askins visited South Africa in 1994 to examine the charges made by Mr. Neifert and other issues. The recent IG's report indicates that Mr. Askins briefed you about the findings on his return to Washington and, according to the interview with Mr. Askins, you were reported to be not impressed with the South African mission director's performance, Mr. Cap Dean.

Askins reported you concluded the issue was whether or not to pull out Cap Dean now or later. Mr. Dean continued to serve as the mission director for 2 more years and was only leaving this summer at the conclusion of a 4-year term.

Given the numerous personnel problems, internal investigations and the IG reports, criminal referrals and numerous failed projects,

why was it that you believed that the problems at the South African mission warranted Mr. Dean's removal?

Mr. BYRNE. I had not only been briefed by the management team, but had met with my procurement contracting officer in South Africa, Mr. McAvoy, to discuss a variety of problems in South Africa.

The meeting at which I was present was a general briefing for a variety of senior officials, including the administrator. The decisions made at that time were in fact that Mr. Dean would be retained. My comments were that I thought that it was time to remove Mr. Dean and to provide other management leadership.

There were other people in the room who—I am a management expert. You have already laid out my background. I am not an expert in development. Many of the other people were, and they felt that based on Mr. Dean's own distinguished career that the appropriate thing to do was to try and correct the actions being taken in South Africa, which we did.

I sent out my own deputy to conduct a review and correct the procurement problems. We launched a series of other management actions. I met with Mr. Dean on several occasions myself and in fact visited South Africa in August 1995 to ensure that the changes we were mandating to bring the mission into compliance were carried out.

It was my sense in reviewing the record that the South African mission had been in a very difficult situation with massive growth, and that the kinds of grants they had had to issue where they could not have written agreements because they were fighting the government, they could not publish grants in the normal way. That led into some bad practices, and we needed to fix those.

Chairman GILMAN. Mr. Byrne, on another subject, I understand that USAID is installing a New Management System, a NMS system, which includes a part called the USAID Worldwide Accounting and Control System or AWACS. I understand that to date, USAID has spent \$70,000,000 on this computer and software system and plans to spend another \$17,000,000 this year.

The USAID IG, Mr. Rush, is scathing in his review of AWACS and NMS, testifying that the system is behind schedule, over budget and an example of the wrong way for a small agency to try to design a computer system from the ground up.

Mr. Rush recommended heaving the \$87,000,000 system over the side and having USAID use a cheaper, more reliable, off-the-shelf system.

Would you care to comment on that?

Mr. BYRNE. Yes, sir, I would. Let me try and correct some of the things on the record, if I may.

First of all, when I originally briefed both the staff of this committee and of our Appropriations Committees when we first began a review and design of the New Management Systems, I estimated that we would spend in the neighborhood of \$50,000,000 in software development for the totality of the overall New Management Systems. To date, we have spent \$43,000,000.

\$12,000,000 of which was spent before I came on a predecessor AWACS which we had to jettison because it was inappropriately approved. In fact I had to go to OMB and tell them that a request

for off-the-shelf contracting that was done before I arrived was done improperly, that we had misrepresented the entire development of AWACS, and that we contended that we were going off the shelf when in fact we were not.

We met with OMB, and in 1994 we went out with a letter of interest. We did not receive any bidders for off-the-shelf services who were able to provide that service. There was one appeal. GAO turned down the appeal. The entire case has been reviewed by GAO and by OMB and they concurred. We are the only agency I am aware of that has actually met the requirements for getting approval from OMB and GSA for a waiver to develop their own system.

Second, in terms of the additional cost, we have spent some \$21,000,000 related to the system for hardware, which is hardware we would have purchased regardless. The system is not simply an accounting system. If it were simply an accounting system, it would already be up and operational. The reality is that this system is already operational in many components.

Last year, we deobligated and reobligated \$330,000,000 worth of pipeline money, accounts we could not even recognize when I arrived. There was no record that was accurate. In order to get an analysis of the pipeline money, which is some \$8,000,000,000, we had to develop a system to do that.

It is our estimate, based on the Africa Bureau alone, that using the new system we have already put in place, we have reprogrammed and reutilized \$140,000,000 which might have been wasted. Therefore, I believe that before we have even put the system up in full operation, we will have already recouped the total cost of the investment in AWACS. I have met with the IG staff. I met with them as recently as Friday with OMB. I can tell you that his views are not shared by most of the rest of the government to the degree that OMB has already required that USIA adopt our AWACS system, has recommended it to the State Department, and has asked us to show it to nine other Federal agencies. Also, Mr. Rush has been quoted in meetings with my staff and with OMB as indicating that in fact the New Management Systems are exactly the kinds of things that Federal agencies ought to be going for and that he believes it will be a model for all of the agencies.

It is not an accounting system. It is a total management system, which fits in with our overall re-engineering and reinvention of the Agency. We have already been moved off the list of most vulnerable Federal agencies on the basis of the things we have done to clean up the system. In July 1993 when I first came to USAID we received a notice that we had just been moved into being one of the most vulnerable agencies in the Federal Government.

As Mr. Rush testified here, that is no longer true. My CFO was recently honored by the accountants in government for his improvements in the financial management systems of the Agency. The Agency was just awarded by Treasury its highest honor in terms of our improvements. We believe we have an exemplary record. We believe that the New Management Systems will support the revised Agency, and we believe that the entire investment and cost will in fact be recouped before it is started.

As to the dates, the dates were over ambitious by my own staff's recognition. The IG has already been informed by my staff that I am crazy about this and that I set dates that no one could meet. I do not agree with that. I have apologized to the administrator and the Agency for not achieving those dates. They were my dates. I set them, and I did not get there. I think we should have made them, and it is unfortunate that we did not.

We are not over budget. We will in fact and are now leading, I think from anyone's perspective in the implementation of the Government Performance Results Act. We will meet the audit requirements in 1997, and we will exceed the requirements of both the law and OMB. I think we have done an excellent job, and I am sorry that the IG is still concerned about that.

I will tell you that in meeting with the staff and meeting with the IG, my question to them was have any of you ever designed or built such a system, and the answer was no. I have spent much of my last 30 years building these kinds of systems. I have built them in many places in the Federal Government.

I think that those who have come and looked, and I will tell you that most of the senior managers in comparable jobs to mine in other Federal agencies have come and looked at this system, and the response from all of them has been they have never seen a system that has moved either as rapidly or as efficiently or as effectively as this system.

Chairman GILMAN. Thank you, Mr. Byrne.

Mr. Hamilton.

Mr. HAMILTON. Mr. Byrne, you say in your statement that the heart of the allegations made by Mr. Neifert was a racial bias in USAID's programs in South Africa. That is the way I read his statement as well.

He said in effect that we, USAID, focused far too much on South African organizations that were led by black South Africans and that we, USAID, gave too many contracts and grants to Afro-American firms so that there was a real racial bias in the management of the program.

I really think you are correct in saying that is the heart of his allegation, and I know your written statement responds to this, but I would like to ask you to respond to it in this testimony. Was there a racial bias here? If there was, did you correct it?

Mr. BYRNE. As it relates to contracting, I think the record shows fairly clearly that there was not a racial bias over a 3-year period, the primary contention here.

In 1991, 1992 and 1993, the total amount of money going to black South African institutions was less than 50 percent in a country where 87 percent of the residents are classified under their then system of apartheid as either "coloured", Asians or blacks. Even in the United States, the maximum percentage of African-American firms receiving our funds was in 1993 at 18 percent.

We did, however, look at questions about why it is that there might have been concerns about the division in which Mr. Neifert worked, which was the private sector one. In reviewing the performance there, we did find some disturbing trend lines.

There were out of that organization in 1990, 1991, 1992 and 1993, no contracts given to "coloureds". The black South African

representation was only 2 percent, and the Asian was 17 percent. Whereas the other parts of the mission were able to provide 40 percent of their contracts with minorities of the three categories, that division was only able to achieve 19 percent.

While the record does not show that Mr. Dean and Mr. Ford in fact sat down and did that analysis at the time, my assumption is that they would have looked at that and raised questions about whether or not that portion of our program was properly being administered.

There was and remains a strong rationale that black South Africans may find greater credibility from blacks, African Americans, who have had similar experiences. That was a rationale, I believe, as the administrator has stated, which we use in a number of other countries.

It is not unusual, nor has this committee in the Congress not discouraged us in fact in the cases of Poland to reach out as we were providing assistance to Polish Americans, to Ukrainians where we reached out to Ukrainian Americans.

We had a situation in South Africa where for 20 years the cry had been freedom first and not education. Therefore, we had a whole group of people who had no history of positive contact with whites in their own country.

I think there was a logical and rational argument to have been made at that time about emphasis of looking at both improving the black South African mix of our contracts, which was the requirement of the law, and also encouraging U.S. businesses. I think our leadership there did not articulate as well as they might have the rationale, but I think there was a clear rationale for doing this. I think it was the reason for pressure to make sure we were doing the maximum amount we could to ensure the best success of the program.

Mr. HAMILTON. Mr. Byrne, let me ask you about some of the language Mr. Neifert uses. I am going to give you several examples of it, and then you can respond to it, if you would.

He stated, "AID irresponsibly refused to correct its management weaknesses in South Africa." Then he charged "a broad-based institutional coverup" and "unconscionable dereliction of responsibility."

He also said that the Administration "uses the South African program more as a trough for selfish domestic political patronage than as a thoughtful instrument of American foreign policy."

He said, "The Foreign Service officers who question the practices," referring to management practices, "were neutralized in whatever way required. Those who complained were victimized."

He talks about the actions at USAID that were referred to the IG as "trumped up" and "bizarre."

That language is extremely strong and provocative and makes very serious charges against USAID. I would like your reaction to some of that.

Mr. BYRNE. Thank you. Mr. Neifert submitted a series of things in his testimony. I brought with me a copy of the portion of the investigative report on his charges, which are those four volumes there, which if the committee would be interested we would be glad to provide.

The question, and I will try to deal with each of them, is you talk about the nature of irresponsibly ignoring. The original concerns were voiced about the nature of contracting actions.

John Hicks, who was the assistant administrator for USAID, well before Mr. Neifert's charges were floating around the press and other places, had already asked and requested that we send a senior contracting officer to correct problems there. Mr. McAvoy was specifically selected because of his excellent reputation and his strong skills in trying to deal with that.

I met with Mr. McAvoy 6 months after his assignment specifically to find out whether we were making progress. I in turn dispatched Mr. Sherwin, a senior member of our policy staff in our procurement office, to make sure that in fact we were correcting problems.

We issued a set of guidance to Mr. Dean requiring that the mission change the way in which it was progressing. We told them that we would be back, and in the spring of 1995 we sent a team out to evaluate. The team found that they had not implemented, as we would have liked, all of the changes, and we demanded that a changed set of actions be taken, including a monthly report on status, and a strengthening of the procurement officer's staff.

I went in August 1995 myself to ensure that those actions were being carried out, and I am pleased to report that as of last month, the contracting officer notified the procurement executive of the fact that he no longer felt that there was a need for the monthly report and that those changes in fact had been made.

We not only strengthened the activities of the procurement office, but we also provided a senior controller with excellent management experience. We sent an executive officer directly from my staff to ensure that all of the administrative functions within the mission were done well. We also made sure that the deputy mission director had been given a clear set of assignments to ensure that there were no further problems.

Mr. Atwood, of course, had also sent his own review team, and had met with the mission director and with Mr. Hicks. Mr. Hicks himself made several visits there to make sure that there was no continuation of problems to the degree they were going on.

There were actions taken as a result of certain employment activities where we found serious fault. We have taken action to make sure those sorts of things would never happen again.

As to the question of an institutional coverup, the IG has already reported. While Mr. Neifert contends that there were serious criminal and Justice Department referrals, I spoke with the IG this morning. He informed me that they will be prepared to brief this committee next week on their findings as they are now closing down their investigation, that they have found no illegalities, no serious violations of rules and regulations, and that the only actions they have referred to the Justice Department are for a referral on policy issues. The IG's volume of investigations is as tall, if not taller, than the report here.

The dereliction of duty I think I have already talked about. I think there was clear intent here to make sure that that was not done.

The selfish political activities. I am not sure exactly what he is talking about. I do know that in Mr. Neifert's testimony previously he has alleged that we sent a political, for example, out to review the case file. The reality is that political that he refers to must be Mr. Sherwin, who was never a political. He is a 32-year career employee with extensive experience who was sent there purposely because of his skill.

I have looked at the question of how much money has actually gone through any organization related to, for example, the Congress, and we have done over \$20,000,000 with congressional-related institutions, the Library of Congress and the Congressional Research Service being the primary ones.

There have been, to the best of my knowledge, no real political pressures except to the degree that, for example, this committee has said that we should be involved in certain kinds of things; for example, universally in microenterprise. We have been very successful in that. It is an initiative of this Administration. It is an initiative of the Congress. I believe that sort of thing we have done, but I do not believe that is selfish or political.

As to the question of Foreign Service officers being victimized, let me give you an illustration in Mr. Neifert's case. When Mr. Neifert was brought back from South Africa after the end of his first tour with a preliminary temporary extension to see whether or not he would become a team player again by Mr. Dean, he was not given a make-work assignment. He was given a serious assignment in one of our major bureaus.

That position was picked specifically so that he could have a chance to deflect himself from his focus on the events in South Africa and have a chance to demonstrate that he would be a serious career player. He was actually assigned to one of his former supervisors in South Africa with whom he had good relations.

Mr. Neifert in his notes has indicated that several other officers indicated victimization. We have not found, nor did the IG find in any of his interrogations with those folks that in fact they felt the same way. Some of those were actions cited, in fact, occurred long before Mr. Dean ever appeared.

There are even suggestions that Mr. McAvoy himself, having been requested by Mr. Dean was allegedly subject to an attempt by Mr. Dean to have him fired. I have talked with the procurement executive, Mr. Sherwin, at the time. Mr. Sherwin assures me that that is not the case and that such an action never did take place.

The actions of the IG I think I have already touched on in terms of the fact that he has not found any illegalities.

Mr. HAMILTON. Mr. Chairman, thank you. I want to make sure that the witness' appendix on Allegations and Facts is made a part of the record.

Chairman GILMAN. Without objection.

[The material appears in the appendix.]

Mrs. Meyers.

Mrs. MEYERS. Thank you, Mr. Chairman.

Regarding the NMS computers, I note you waived the Federal Acquisition Regulation (FAR) requirement for full and open competition for the purchase of the main servers of the system. You

used an Intelligence Agency authority to buy computers through the National Security Agency without a full Federal tender.

The IG noted that the cost of the hardware you purchased for the system is four times greater than the cost of the alternative. They noted you bought 44 top-of-the-line systems, each one designed to meet the needs of the Egypt office, your largest mission.

The USAID IG noted that the analysis used better represented a justification for a specific make or model of equipment, which is effectively a sole-source procurement. They note that the decision to buy RS-6000 computers costing \$4,300,000 over Spark 20 computers costing \$1,000,000 does not appear to be founded on any discernable technological difference.

Those are the findings of the IG. Can you comment on the IG's report?

Mr. BYRNE. Yes. There is additional information related to that, which I am sure the IG has also provided you, related to ultimate reviews by GSA of the competitive procurement that we went through.

Let me deal with them in the order in which you raised them. We did in fact buy the original servers through an existent government contract. This is a normal process when you have a similar requirement.

We submitted through our procurement office a request to the procurement office at that agency, who assured us that the competition under which they had acquired this contract was appropriate and that we could use it as an add-on contract, which is a normal government practice.

Later, the IG raised questions about that, raised questions with GSA about it. GSA determined that they did not feel that we should have used that contract or that we should use it again. While we were willing to debate the issue with GSA, we decided that the proper decision at that time was to go ahead and compete the contract.

The decision to do that ultimately cost us in terms of purchase of the same models \$2,000,000 more than they would have cost us under the National Security contract, aside from the cost of running the competition itself.

As to the purchase of the 44, the IG asked and we submitted to GSA, who is the governing body in this question, a proposal on why we needed the size and complexity of the servers we were looking for. GSA reviewed it, came back to us with a set of suggestions which we implemented, and we ran it as a competitive procurement.

In fact, we had several bidders for the contract. All of them could meet the requirements. We ultimately chose the cheapest model, which turned out to be the ones we currently have.

As to the question the IG raises about the capacity of certain Sun 20 servers, the decision the IG made on that was based on internal E-mail traffic between certain members of my staff in discussing the requirements. The staff involved had not been involved in the actual design of the new systems, did not know the requirements of the systems, nor had they reviewed it.

We went over those requirements with all of the staff. The staff ultimately concurred that absolutely we needed that requirement.

The reason we bought the same level of servers universally is not because we have designed it to service Cairo. Rather we have designed it so that the system will be absolutely the same in every mission in which we operate so that we will no longer be in a situation where every time we move an employee from one mission to another we will have to retrain them.

We set it exactly the same so that if we are stuck as we were in Rwanda with having to pull our people out, a situation that cost us nearly 9 months of time and millions of dollars to correct records because our records were destroyed. Under the server requirements we have built now, we can literally pull a single disk, take it out and go to any mission in the world and run it.

We will reduce our training cost. We will reduce our maintenance cost. More importantly, we will ensure the integrity of the system.

One of the real problems we have is that a number of people have commented on the system in bits and pieces. The system design is to be a total management system. It carries not only financial accounting records, which is what the former systems were designed to do, but will deal with our total operation from the design of our projects through the actual termination of contracts. It will allow managers to have a full knowledge base so that they can make proper decisions. We believe that each and every mission has the same requirement.

It will also contain information so that the quality of training of our professional staff will be improved. We will be using distributive data base activities to do that training.

The Spark 20 systems simply could not support the kind of memory base that we needed, nor would we be able under the limited system that was proposed when we came in to provide the kind of technical knowledge base that our people need to make the right kinds of decisions.

We just had a lot of discussions about South Africa. It is our view that many of the errors in South Africa would not have occurred if the proper information about best practices would have been available, which the new system will allow. We think that it was the right decision.

Mrs. MEYERS. And it was essential that this system be sole-sourced?

Mr. BYRNE. The system was not sole-sourced. Only the four initial servers were actually done on the basis of the National Security Agency contract, which is not a sole source. It had been a competed contract.

We went to competition to buy the other servers we have around the world now. That was a competitive procurement at which several bidders responded.

Mrs. MEYERS. Under the Federal Acquisition Regulation, you must use full and open competition unless one of eight exceptions are used: There is only a single source of supply and unusual or compelling urgency, industrial mobilization, international agreement, authorized or required by statute, national security, public interest and, finally, USAID's own acquisition regulation which allowed limited competition when it determines competition "would impair foreign assistance objectives".

The FAR specifically states, "It is Federal policy that contracting without providing full and open competition shall not be justified on the basis of a lack of planning."

In your waiver of competition requirement using No. 8, you noted that, "Due to the impending highly politicized October deadline and the lengthy process of formal ADP procurement, there is no time for a fully competitive procurement."

This sounds like you ran out of time and that against a specific policy of the FAR you conducted a sole-source procurement. Can you comment on that?

Mr. BYRNE. Again, we purchased four main frame servers from a National Security Agency existent competitively awarded contract. We then ran a limited competition for all firms who had the capacity to meet our needs. We received several different offers. We did not sole-source the purchase of the other 44.

Was there a proposal at one time to do so? Yes. Did we do it? No. The competition actually occurred, and several other vendors submitted proposals. There was a full briefing for those contractors, and one of the reasons that we delayed the October 1 implementation date was to allow that competition to go forward.

While we did consider the possibility with National Security Agency of simply using them or going to sole source, we did not use a sole source to procure these servers. The servers that are in the missions were competitively procured under the FAR regulations.

Mrs. MEYERS. What did you buy that was sole-sourced? You said the first four.

Mr. BYRNE. The first four were purchased not on a sole-source basis, but through a contract competitively let by the National Security Agency. We went to them. If an agency has competed a contract, other agencies may ride it. That is what we did.

The IG then came back and said to us after a review and questions were raised that they did not think, and GSA agreed, that the National Security Agency contract was properly competed, that the limitations that applied there did not apply to us.

We were unaware of those provisions at the time we made the agreement. We had consulted with the procurement executive with the National Security Agency. They had reviewed our proposal and approved it.

We then considered the possibility of going sole source. We did not ultimately go sole source. We went to a competitive procurement, which delayed the delivery of the servers so that we could not receive the servers in the missions until after the first of this calendar year. This delay did not allow us to begin the operations or to do the testing that would have been done earlier, which is one of the reasons that we did not meet the October 1 deadline.

We did not do these as a sole-source contract. These contracts were competitively awarded. The decision on—

Mrs. MEYERS. Mr. Byrne, let me follow up just quickly with what our understanding is here.

You noted in your waiver of the requirement for full and open competition that, "Two known sources, whose systems have been tested and are operating in our operating environment, are capable of providing this critical technology to meet our timeframe, IBM and Sun Microsystems."

The IG reports your office sent out a Request for Proposal with an unprecedented 4-day deadline. The usual deadline is 30 days. Sun asked for a 10-day extension and was denied. They asked for another extension and were denied again.

The IG reports that USAID's decision effectively made the procurement a sole-source action. Such a procurement strategy does not give the appearance of even a limited competition.

Can you comment on this portion of the IG report?

Mr. BYRNE. The IG report indicates that we in fact did put a short timeframe on the acquisition under the competitive procurement. All of the bidders on this procurement have standard packages. We were not asking them to put together a package that was a technical proposal. The length of time given them is a standard length of time.

My experience in the private sector is that those same vendors would be able to respond to me within 24 hours of exactly what kind of equipment they have. It is not an unusual time length. DOD and many others have used shorter timeframes. It was not a bid as you might bid under a contract to tell us how to do something. It was a bid for equipment.

If you will, the analogy would be, I suspect, that if any of us wandered out right now, we could go to a car dealer, and the car dealer would tell us how much the car was. That is all they had to do. They came back in. They did in fact negotiate with us.

As you know, many of these contracts and grants for computer systems are frequently challenged. It is not an unusual thing to have a challenge.

Mrs. MEYERS. But there were only two bidders. There were only two people you were talking to, and one of them asked for a 10-day extension.

Mr. BYRNE. We had put out the bid so that others could bid. Only two of them indicated they could come back and do it. That is correct.

Sun did not challenge our decision, nor did Sun in any way feel that what we had done was untoward, nor was Sun unable to respond.

Chairman GILMAN. The gentlelady's time has expired.

Mr. Berman.

Mr. BERMAN. Thank you, Mr. Chairman.

I assume, Mr. Byrne, that you are here under subpoena to talk about the allegations of Mr. Neifert. Did Mr. Neifert make allegations with respect to the computer management system that you have been testifying about for the last few minutes?

Chairman GILMAN. If the gentleman will yield? We also set forth for Mr. Byrne that he would be questioned about this management system when he appeared before us.

Mr. BERMAN. All right. So you were on notice about this subject coming up?

Mr. BYRNE. I was informed by Mr. Kirk that there would be additional questions beyond the Neifert case before I appeared.

Mr. BERMAN. Fine. Thank you.

I want to deal with this whole question of confidentiality. A superficial implication of this confidentiality agreement is that either USAID insisted on a confidentiality provision in order to hide the

fact that they were in effect paying off Mr. Neifert because they could not defend the charges of wrongdoing that he had made or that the confidentiality agreement involved not simply how much he was paid, but a requirement that he speak no further on this subject.

First of all, is it a standard procedure when you make a settlement with an employee who is involved in litigation with the Agency that there is a confidentiality agreement?

Mr. BYRNE. Yes, sir.

Mr. BERMAN. And does that agreement relate to speaking of the charges, or does it relate solely to the dollar amount?

Mr. BYRNE. It normally only relates to the nature of the agreement. There are many conditions of the agreement. In this case, for example, not only did we request confidentiality, but Mr. Neifert's lawyer also requested confidentiality.

Mr. BERMAN. Did any part of the confidentiality agreement prohibit him from raising allegations against USAID?

Mr. BYRNE. No, sir.

Mr. BERMAN. In other words, the settlement agreement permitted Mr. Neifert to continue to talk about anything he wanted except the actual terms of the settlement?

Mr. BYRNE. That is correct.

Mr. BERMAN. And what did Mr. Neifert seek in damages from his efforts?

Mr. BYRNE. The original request from Mr. Neifert to me was for a settlement of \$3,000,000.

Mr. BERMAN. And what was the final settlement?

Mr. BYRNE. The final settlement was \$100,000 to Mr. Neifert and legitimate and justifiable legal expenses, which turned out to be \$33,500.

Mr. BERMAN. Has Mr. Neifert's ability to state his views on USAID activities in South Africa or any other subject aside from the actual settlement terms been limited by this agreement?

Mr. BYRNE. No, sir.

Mr. BERMAN. Do you have an estimate of what litigation costs would have been had USAID not entered into a settlement agreement with Mr. Neifert?

Mr. BYRNE. Litigation services only or total cost to the Agency?

Mr. BERMAN. Explain to me both.

Mr. BYRNE. All right. Let me tell you the calculation on which I would base such an opinion and on which we normally base them.

Mr. Neifert in fact had three separate cases pending with us, one with the Office of Special Counsel, a grievance and an EEOC case. We would normally calculate the total cost to the government to litigate these cases. In the EEOC case, for example, the estimates run as high as \$50,000 per case. We also take into account a look at all of the other conditions.

Mr. Neifert's and our estimates with the lawyers was that this case would take at least 2 years, that we would tie up Mr. Neifert's salary for 2 years, and those of his supervisors. There were incidental expenses related to this.

My estimates were that the totality of cost to the government when litigation, salaries and other things were calculated that we would spend somewhere between \$500,000 and \$600,000.

Mr. BERMAN. So you recommended a settlement along the lines of the final agreement?

Mr. BYRNE. I made the agreement. I signed the agreement and made the deal.

As the chairman pointed out, I have been a consultant in business. I have been in this business for a number of years. I have advised both state and local governments, private sector organizations and others.

This is the type of agreement you seek where you want to get to a settlement on both sides. This was a reasonable settlement and not a particularly high settlement.

Mr. BERMAN. Who raised the issue of settlement first, the Agency or Mr. Neifert?

Mr. BYRNE. Mr. Neifert's attorney approached us.

Mr. BERMAN. There was an implication at the last hearing with Mr. Neifert, and I think Mr. Neifert supported that implication perhaps explicitly, that the reductions in force, the layoffs, now going on at USAID are to some extent made more severe and are related to the decision to settle with Mr. Neifert. Can you speak to that?

Mr. BYRNE. This is a very hard day for me to talk about this. As of 8:30 this morning, we began to deliver the reduction-in-force letters to some 97 employees at USAID.

Based on my analysis of the case, if it were continuing and Mr. Neifert were still on board, we would continue to expend money at a much higher level. In fact, this settlement, while in total dollars it will not have a massive impact, it will actually free up some amount of our operating expenses and will have exactly the opposite impact that Mr. Neifert suggests.

Mr. BERMAN. Two more questions. First, Mr. Neifert has made an allegation he has received compensatory damages from USAID implying that he has been compensated for wrongdoing by the Agency.

Is there anything in the settlement agreement that makes reference to compensatory damages or wrongdoing by the USAID?

Mr. BYRNE. There is nothing in the agreement. Mr. Neifert's attorney had discussed with us the possibility of categorizing part of them as compensatory damages, and we refused.

Mr. BERMAN. And so your point of view was this was money paid to avoid costs that you thought would be four to five to six times as high to the Agency from the litigation and all that would ensue from the litigation?

Mr. BYRNE. That is correct.

Mr. BERMAN. My final question is apparently Mr. Neifert submitted for the record four affidavits and 13 statements from colleagues who he alleged support his position, I guess his criticisms and charges, against the USAID South Africa program.

Are these statements and affidavits part of a larger report of investigation into Mr. Neifert's allegations?

Mr. BYRNE. I do not know which ones Mr. Neifert submitted. Are these the ones that he submitted at the hearing?

Mr. BERMAN. Yes. He submitted them for the record of the hearing, yes.

Mr. BYRNE. I do not know that I have seen which ones he has submitted, so I cannot really tell you.

Mr. BERMAN. All right. Is there a report of investigation into Mr. Neifert's allegations?

Mr. BYRNE. Yes, there is. It is this report at the end of the table, which is a report on the EEOC investigation. There are also several volumes of IG investigations into Mr. Neifert's allegations.

Mr. BERMAN. And you do not know whether that report includes affidavits and statements from colleagues?

Mr. BYRNE. I know that there are several affidavits in the record that Mr. Neifert collected himself which indicated support for portions of his position. I know also that there are indications in this file of disputes with some of those affidavits, particularly as it relates to specific individuals, as well as supervisors.

I do know that in one of the separate reports of the IG, the IG specifically looked at this and did not find support for Mr. Neifert's claims.

Mr. BERMAN. Would you be willing to make available to the committee that report so that we can review the statements and affidavits which Mr. Neifert has submitted from colleagues in the context of the total investigation?

Mr. BYRNE. Yes, sir.

Mr. BERMAN. Thank you very much.

Mr. Chairman, I would ask that the report of the investigation be made part of the record.¹

Chairman GILMAN. Without objection.

The gentleman's time has expired.

Mr. Kim, did you have an inquiry?

Mr. KIM. Yes. I would like to ask a couple questions.

Chairman GILMAN. We are taking them in the order.

Mr. KIM. All right.

Chairman GILMAN. Mr. Bereuter.

Mr. BEREUTER. Thank you, Mr. Chairman.

Mr. Byrne, I am looking at the pattern of settlements, and I am wondering if you could tell me in general or a ratio at least.

What percentage of those settlements would be caused by the effort of the Agency to terminate the employee versus the complaints brought against the Agency?

Mr. BYRNE. I do not know the specifics of each of the cases. I can certainly get back to you for the record.

Most of the cases that are settled are cases that have to do with less than termination. Most of them have to do with either disciplinary actions that were taken or a sense that some disciplinary action was being taken and not supported.

I do not know. Without going through the specifics of the case, I cannot—

Mr. BEREUTER. If you could provide that, I would appreciate it.

Mr. BYRNE. Certainly.

Mr. BEREUTER. Mr. Byrne, I sent up to your staff two charts from the semi-annual reports to the Congress for the two 6-month periods ending March 31, 1996. I wanted those in front of you when I asked this question.

¹The abovementioned documents are available through the committee.

You notice that the charts for the two 6-month periods are investigative actions. One of the categories is administrative. Looking at that category, I notice that in one 6-month period, 76 out of the 79 administrative actions are simply administrative referrals. In the other case it is 29 out of 30.

I look at the State Department, and I find a much wider variety of administrative actions where they are not in great majority simply administrative referrals.

First, could you give me an explanation of what would be categorized as an administrative referral?

Mr. BYRNE. We refer many kinds of cases to the IG for review. If, for example, we find any kind of situation where there may have been a report that someone was improperly traveling or that there had been an allegation of a breach of the conflict of interest questions, any and all of those sorts of cases would have been referred as an administrative case to the IG for determination.

Mr. BEREUTER. If I understand correctly, it would seem that action was taken on administrative referrals in only a minuscule amount of the number in those two 6-month periods. Is this a correct reading on what is being conveyed by this chart?

Mr. BYRNE. I am sorry?

Mr. BEREUTER. It would appear that action was taken on only a small number, a minuscule number, of the 79 administrative actions and 30 administrative referrals. One, for example, resulted in a resignation and one resulted in a termination in those two 6-month periods combined.

Does this convey to us that nothing is happening as a result of these administrative referrals?

Mr. BYRNE. No. It depends on the nature of the referral. If we have an allegation that someone is improperly traveling, we send it there. The IG reviews it and sends it to us. They may send it back to us and say what are you going to do about this.

We may have a finding that says there was no illegal action and the recommendation may be that this now is an appropriate case for the Agency to deal with. Depending on the nature of the case, we will take individual actions. I do not think one can generalize from a set of numbers as to whether or not we do admonishments or counseling.

I think that there is a general sense that because we deal in so much more procurement activities than the State Department, which tends to be areas that are fraught with potential abuses, we get a lot of cases where allegations are made where nothing substantively is ever found.

We do look very seriously at these. Each of the cases is taken up with the appropriate assistant administrator. In some cases, I may be involved with them specifically, but those cases come from the IG having found some level of problem, but frequently not a serious enough one to result in admonishment.

Mr. BEREUTER. Mr. Chairman, I see my time has expired already, but I think it would be appropriate if we would send a letter to the USAID IG asking if this is a normal kind of pattern of referrals and action or non-action.

Chairman GILMAN. Without objection.

Has the gentleman completed his inquiry? Go ahead.

Mr. BEREUTER. Thank you. I would move to another question then.

You mentioned, Mr. Byrne, that this was not a happy day for you because of the 97 RIF notices that go out today. That is just the Foreign Service officers, as I understand it.

Mr. BYRNE. That is correct.

Mr. BEREUTER. We have been told that next week, there will be another action that involves the civil servants.

Mr. BYRNE. That will actually happen early next month, yes.

Mr. BEREUTER. Early next month. Also, it has been conveyed to us that of the 103 expected at this point, over half will be secretaries and only four senior manager group employees.

Is that generally accurate, and how would you explain that proportion?

Mr. BYRNE. The 103 is on the General Schedule, and all of those have not been identified. I assume since you are talking about it, it is really the 97 Foreign Service officers.

Mr. BEREUTER. No. I am really talking about the civil servants and the proportion there.

Mr. BYRNE. The reality is that in the case of the General Schedule, unlike the Foreign Service, General Schedule is based on abolishment of positions. Positions have been abolished at a variety of different levels.

However, if we have a GS-15 whose position is abolished, in many cases that individual has either retreat rights back into a position from which they came, or they may bump into another position for which they are qualified in the same organization where they are qualified. Therefore, what you get is a cascade down the line in the General Schedule.

While we have a number of people at the upper range whose jobs are being abolished, they will bump and retreat back in some cases to much lower levels. As frequently happens in the case of the General Schedule, the people with the least experience in the administrative jobs who are bumped into are the ones who are most likely to go away.

I cannot tell you at the moment exactly who on the GS side will actually leave because there will be offers made to a number of people. They may choose to refuse them. They may retire. There may be a series of other things.

I cannot tell you what the exact number will be in the General Schedule yet, but it is likely it will be heavily on the clerical side because that is the nature of General Schedule RIFs.

Mr. BEREUTER. Thank you very much.

Chairman GILMAN. Thank you.

Mr. Payne.

Mr. PAYNE. Thank you.

First of all, I was looking through the testimony, and I was reading sort of the same kind of feeling that Mr. Hamilton had about the extreme terminology used.

Mr. Neifert said he was in opposition to the program, Soft Sheen, that would attempt to start microbusinesses in South Africa. He said that he was opposed to it because, in his opinion, South Africa was ready for a civil war. He thought that any day the civil war would happen, and he wondered why would we be doing something

about preparing people for small businesses. The program evidently did not work that well, but I do not think it was a bad idea.

Looking at the testimony, his opposition was well, while this civil war is imminent right here—it is on us—why would we be having this misuse of money?

What was your feeling about the same time that he was there? The civil war business was something that people had thought about in the 1970's and 1980's. In the middle 1990's, most people that I talked with felt that the process was on target and was irreversible. There certainly would be conflict and violence. We heard about the Third Force, the military, influencing Inkatha so that clashes would continue to make it difficult.

Any time peace is imminent, you get people really trying to disrupt it even more so. You will see that in every peace process, whether it is in Ireland, whether it is in the Middle East.

In your opinion, did you have the same feeling in 1991, 1992, 1993, that South Africa was ready for this bloody civil war?

Mr. BYRNE. Our Africa Bureau, the reports out of South Africa, did not imply or indicate that there was a large likelihood of civil war.

The case you mentioned, which is Soft Sheen, was actually approved by Mr. Neifert's boss, who he had supported many times, Mr. Johnson. I just finished conversations with the IG today indicating that in fact in a continued review of the Soft Sheen case that there has been improved performance. They have actually graduated more people out of there. There are now more than three times as many graduates as had been reported before by the IG.

They had visited the case file again and found significant documentation they did not have previously on the case. In fact, contrary to Mr. Neifert's allegations that there was poor management of this particular issue, while the proposal was for \$500,000, the mission never actually let more than \$240,000 out the door. They closed it down much more rapidly than had been the case in many USAID projects before.

Mr. PAYNE. Thank you.

Another allegation came up about the influence of the Congressional Black Caucus and the Congressional Black Caucus forcing USAID to have some projects. Now, I am only chairman of the Congressional Black Caucus, so I was certainly a little surprised by some of his characterizations.

First of all, the Congressional Black Caucus had no program there. I understand that there was a modest program, the Congressional Black Caucus Foundation, which is a 501(c)(3) independent private group, that does very little in interfacing and actually now does absolutely nothing with the Congressional Black Caucus under the new regulations under the new House rules.

Could you just tell me briefly? I was very annoyed and incensed about this characterization that the Congressional Black Caucus pushed around USAID to get some project. Could you tell me a little bit about this program he is talking about and what were its goals and objectives?

Mr. BYRNE. The program I believe that you accurately described was one that was a very small one. It did deal with the Foundation. It was an attempt to try and convey to emerging black leaders

about how black leadership could advance and what had happened in this country. It seemed a reasonably good proposal, and the results seemed to have been good.

I do think that there is a problem frequently with Foreign Service officers who are likely to impugn congressional intent, whether it comes from support of programs like microenterprise or any others, that somehow that is a political animal and something that is not pure development. They did not think of it, yet many of those things have been most useful for us.

I can tell you that there is no indication that the Congressional Black Caucus, as you know, had any pressure or pressured anyone about this grant or contract.

Mr. PAYNE. Finally, when we look at the overall numbers, Mr. Neifert seemed to have some problem with the fact that there was outreach to try to see whether African-American businesses could participate.

With all of the effort that went in, as you indicated, African-American businesses received about 18 percent of the contracts. Eighteen percent does not necessarily seem outlandish. Evidently, the gentleman perhaps felt that 18 percent was too much. I guess if you took the overall, and I know that USAID is trying to work on improving its work with minority vendors, probably worldwide it is maybe 2 or 3 percent.

An effort with the new multi-racial government is an attempt to utilize some African-American firms that really kind of are shut out of other places. We are not using them much, like you said, in Poland or in the Ukraine or in Russia. If it could be used anywhere, their expertise it would seem like would be a natural to try to make an extra special effort in South Africa. Also with the fact that, as you mentioned, 87 percent are categorized as non-whites, less than half of the contracts that were let in South Africa went to the non-white communities. Less than half.

Could you try to explain to me why there was so much opposition for an attempt by the Agency, by this particular gentleman, who seemed to think it was just going too fast too far?

Mr. BYRNE. Let me speak to that issue as best I can. I obviously would not propose to get inside of Mr. Neifert's head and try to tell you what he was thinking.

I can say to you that there is a long history, if you look at USAID contracting, of limiting contracting to firms that primarily do business with USAID. When I first arrived there, I found that of the 40 top firms that we did business with, despite the fact that I had been in contracting and around the government and this town for 25 years, I was unable to identify more than four.

When I looked at them, it appeared that essentially 90 to 95 percent of all of their business was done with USAID and that there was a tendency to hire people who did only USAID work so that you ended up with the same firm doing agricultural research in Central America, democracy in the Middle East and environmental programs in Russia without having any core expertise.

Many of the best firms, both minority and others and particularly small businesses, were generally not given an opportunity or a fair chance to compete.

What we have tried to do very strenuously here is to change that. Over the last 3 years, we have actually given contracts out to 800 firms who had never done business with USAID. This does mean that what had been shown in GAO reports, IG reports, OMB reports and others, which was a too cozy relationship between people in USAID and their contractors, was something we were trying to stop.

I think that is a baseline. It has to be understood that there was always a reluctance to go outside and look at other vendors.

The indications are, for example, in the major contract, which seems to have been the original contract of dispute, there was a question raised by Mr. Dean as to whether or not this contract, which was a business development contract following on a contract that had already existed in 1987 and beyond, could not conceivably be given as an 8(a) contract.

Mr. Neifert and Mr. Johnson declared that there were no 8(a) firms, no Gray firms, that could in fact possibly carry out this task. Our review of the records indicate that our procurement people in Washington and others did not agree with that. We think that that was clearly a doable thing.

As I have already stated, the records in the private enterprise group within South Africa indicate that they had not reached out nearly as much as others had to black South Africans to include them, nor had they reached out to "coloureds" in South Africa as they are classified there.

I think there was a general evidence on the numbers that the overall private sector group was not interested particularly or had not done as much as they might or certainly as the rest of the mission had done in trying to expand those opportunities.

Given all of that, how Mr. Neifert decided that there was undue pressure, I am not sure. You cite the percentage of 18 percent, which was the highest number we have achieved in 1993. In 1994, the number was actually down to 14.9 percent. I do not think there has been an overt attempt to do this, and I am not sure on what basis Mr. Neifert decided that this was a problem except in the broad context of an overall reluctance on the part of many in USAID to change the nature of the contracting process.

Mr. PAYNE. Thank you very much.

Chairman GILMAN. The gentleman's time has expired.

Mr. Kim.

Mr. KIM. Thank you, Mr. Chairman.

I have a couple questions for you. The first question goes back to the settlement business. You told us that it could have cost the government \$500,000 if you had not made a settlement with Mr. Neifert and that paying him \$133,000 sounded like a good deal.

I disagree with my colleague. I do not remember any time that Mr. Neifert made any extreme statement. He tried to do a good job. He disagreed with your policy, and he tried to bring it to your attention. Instead, he got demoted. Now he is going through this nightmare.

Do you have some kind of policy to make a settlement when anybody complains? Do you pay them so much to keep their mouth shut?

Second, why do you not fight to the end? If you believe you are so right, why would you make a settlement? Why do you not fight to the end to make sure that nobody ever dare file against your policy?

Can you briefly answer that because I have one more question?

Mr. BYRNE. The overall Justice Department guide for many years encourages settlement. The EEOC, which was one of the complaints Mr. Neifert had filed, requires before the hearing examiner will even have a discussion that you must have discussed the possibility of settlement, so there are many reasons to encourage settlement.

As to the degree of fighting it out, it is uncharacteristic of my record that I do not like to fight it out. I am much more likely to do that. In this case, having looked at what it was going to take us in terms of management costs, I felt it was a good settlement.

I think it is also important to remember that it was not only a good settlement for us, but I think ultimately it was a good settlement for Mr. Neifert. I have been a human resource professional much of my 30 years. I believe there are times when an organization has an obligation to consider the best interest of both the institution and the individual. I think this settlement did both of those things, so I think it was an advantage for both sides.

Mr. KIM. We are dealing with taxpayers' money. If I owned a company, I would not sell it. I am talking about my own money. I am going to fight for it if I think I am right.

My first question is do you have any policy of how much? Why not \$300,000? Why not \$400,000? Why \$133,000? Do you have some kind of policy? Does that mean the louder mouth gets more money, or is there some kind of internal policy? Who gets how much?

Mr. BYRNE. The case will really depend on a number of things. One, are you setting precedent? This was not a precedent-setting case. If it had been a precedent-setting case and it might cost us money in future settlements, we might have fought it differently.

We do look, as a basic policy, at whether or not the settlement is one that is going to be cost-effective for the government. That is our guidance. It is a government-wide policy. It is private sector practice.

I understand, Mr. Kim, you have been in business for a number of years, but I can tell you that I have advised any number of both small and large businesses on these questions. Sometimes you make the settlement because it is good business. I think in this case it was good business.

Mr. KIM. I have one brief question. What is the definition of a minority-owned business?

Mr. BYRNE. It is an SBA definition. It is a relatively long definition, but there is a whole series of criteria. Under 8(A) there is one set of criteria. Under the former Gray Amendment which existed there was a different set of definitions.

Mr. KIM. And my question to you is if any contract comes up, even if you have a minority set-aside program, do they have to compete among themselves?

Mr. BYRNE. In many cases they do. In cases of some grants and other activities, there may be no competition. On small purchases, there may be no competition.

Generally in terms of large contracts they do. In fact, there may be set asides, either a set aside of a total contract, a set aside of a portion of a contract or a provision that the major contractor will have to provide a small business portion and—

Mr. KIM. You do not have any program that one group gets preference over the other group?

Mr. BYRNE. Absolutely not.

Mr. KIM. They are all equally treated?

Mr. BYRNE. That is correct.

Mr. KIM. My question to you, sir, is why was a contract that was awarded to an Asian-American-woman-owned business—the contract was awarded on a competitive basis later revoked by you and given to another group uncompetitively?

It was written in the IG's report. The company's name is CCI based in Boston, Massachusetts. Why did you do that then?

Mr. BYRNE. This is a case in South Africa. There is a good deal of dispute about exactly what went on in the nature of the discussions. I have read the allegations in the IG's report, which vary about the statements that were made there.

If the question that was asked, which is referenced by one of the FSNs who was there, was is this in fact a company that has the sensitivity that will be able to do that, it is probably a legitimate question. If it is as Mr. Neifert and others contended that you have shown preference to somebody to deny preference, it is the wrong statement.

It is not our policy to discriminate against one group within the Gray Amendment over another. That is absolutely unacceptable to us. It would be unacceptable to us in the 8(a) activities.

The ultimate decision to terminate and not go to competition has been reviewed. There were no findings by the IG that this was in fact a violation, but rather a change in policy. I can only tell you what the record shows.

Mr. KIM. Mr. Chairman, I would like to ask for unanimous consent. I would like to pursue this matter in writing.

Chairman GILMAN. Without objection.

The gentleman from Alabama, Mr. Hilliard.

Mr. HILLIARD. Thank you very much.

Mr. Byrne, I practiced law about 27 years before I came here, and I have represented corporate Alabama, some Fortune 500 corporations on both sides. I handled EEOC cases and Title VII cases. Also, I represented HUD in some cases. I am familiar with these types of settlement agreements.

Let me just cut through the chase and get to the point. The settlement agreement, was it hush money?

Mr. BYRNE. No, sir.

Mr. HILLIARD. The fact of it is, you were not the only one involved. You were advised by a lawyer, were you not?

Mr. BYRNE. That is correct.

Mr. HILLIARD. The Agency was represented by a lawyer?

Mr. BYRNE. That is correct.

Mr. HILLIARD. All right. The amount of money that was chosen for the settlement was actually negotiated, was it not?

Mr. BYRNE. That is correct.

Mr. HILLIARD. It was not pulled out of the sky?

Mr. BYRNE. That is correct.

Mr. HILLIARD. And this is generally the way it is always done, is it not?

Mr. BYRNE. That is correct.

Mr. HILLIARD. So there was nothing unusual?

Mr. BYRNE. That is correct.

Mr. HILLIARD. All right. Now, in calculating from the Agency's standpoint how you arrive at what you would hope for and the parameters, one of the things you look at is not only the salary of the individual, but the time involved in the case, the number of persons in the Agency that are going to be tied up to testify. All of this plays a part. Is that correct?

Mr. BYRNE. That is correct, including in our case travel costs for people to come in and be deposed, to appear and many other things, yes.

Mr. HILLIARD. So based on this, you arrived at a figure somewhere in the neighborhood of \$600,000 in terms of ultimate cost, give or take \$50,000 or \$100,000?

Mr. BYRNE. Correct.

Mr. HILLIARD. And the settlement was only for \$100,000 plus attorney fees of \$33,000?

Mr. BYRNE. That is correct.

Mr. HILLIARD. Just in time alone, how long does it take to litigate one of these cases from the day the complaint is filed up until the time it is actually tried when there is no settlement? What kind of time period are we talking about?

Mr. BYRNE. We are talking at least a year, if not longer, from the time it is—

Mr. HILLIARD. Actually, we are talking about years, are we not?

Mr. BYRNE. If you are talking about from where we were, we were expecting that the case would not go to trial for over a year. By the time you have gone through the hearings and other things, normally these cases take anywhere between 2½ to 3 years at minimum.

Mr. HILLIARD. So even without counting monetary or financial reasons, we have the Agency tied up with a matter. We have the possibility that even the employee, disgruntled, is still there working in some instances, right?

Mr. BYRNE. That is correct.

Mr. HILLIARD. All right. And we have him still handling matters concerning government business? Is that true?

Mr. BYRNE. That is correct.

Mr. HILLIARD. Generally when people file a grievance, they do have some problems with either the agency or those persons who are in management concerning them?

Mr. BYRNE. Correct.

Mr. HILLIARD. All right. And whenever there are grievances filed, is it not really the policy of trying to resolve those grievances as soon as possible so that those persons involved can get back to taking care of government business?

Mr. BYRNE. Correct.

Mr. HILLIARD. Is this what happened in this situation?

Mr. BYRNE. Absolutely.

Mr. KIM. Will the gentleman yield?

Mr. HILLIARD. In just a few minutes. There is one other question I want to ask, and then I will be happy to yield to you.

Mr. Neifert, in his statement, somewhat indicated that he was paid to be quiet. Actually—

Mr. BYRNE. He indicated that. That is correct.

Mr. HILLIARD. Absolutely, but actually there is no law that could buy anyone's Constitutional right.

Mr. BYRNE. That is right.

Mr. HILLIARD. And the limitations of the agreement were basically in revealing the terms of the agreement itself?

Mr. BYRNE. Correct. That was applied to both us and to Mr. Neifert.

Mr. HILLIARD. And the format for this agreement, this settlement, is almost commonplace? Is that a fact?

Mr. BYRNE. That is correct.

Mr. HILLIARD. Now, was it anywhere mentioned in that agreement that he could not talk about any problems that he thought existed with the Agency?

Mr. BYRNE. No.

Mr. HILLIARD. All right. I have about six other questions, but because of time I am going to submit them for the record. I am going to submit them to the Agency.

[Questions and responses appear in the appendix.]

I would like to have those questions in the next 4 or 5 days. They are very short, and they are percentage-type figures that I am looking for that pertain to the RIF that is about to take place.

Chairman GILMAN. Without objection.

Mr. HILLIARD. Thank you.

Mr. KIM. Thank you for yielding.

Mr. HILLIARD. I will yield.

Chairman GILMAN. The gentleman's time has expired.

Mr. Moran.

Mr. MORAN. Thank you, Chairman Gilman.

You know, what strikes me most about this whole hearing is that we have so many problems in Africa, in Rwanda. We had a genocide that took the lives of hundreds of thousands of people. We may have another genocidal situation in Burundi. We have a very serious situation in Nigeria and Liberia.

In fact, you could name almost any country, they have a more serious situation right now in terms of the need for our intervention and understanding of that situation than in South Africa where we have a tremendous success story. All of our greatest expectations have been realized in South Africa.

When you look at some of the projects that we have been involved in in USAID, many of those have been unmitigated success stories. We are obviously doing something right because the proof is in the results or ought to be. We have seen some results that have been extremely positive. A horrific potential situation did not occur, and in fact we have a democracy. We have a tremendous

leader who has a strong relationship with the United States actually because of some of the programs—USIA, USAID and so on.

We have an opportunity to now develop greater market capability on the part of South Africa, but one of the things we ought to be doing is to be developing minority-owned firms. The population is about 87 percent black, and our contracts are about 18 percent. I saw one figure of 24 percent. Either way, that would indicate that if anything, we ought to be making a special effort to show the kind of affirmative action initiatives that we have shown in this country.

And yet we have had four hearings of this committee on these allegations. I have listened intently. I did not have 2½ hours to sit here, as I am sure you did not, Mr. Chairman, but I have listened intently trying to figure out what is the big deal, what we can catch Mr. Byrne red handed at. I have looked through this, and there seems to be a logical explanation for all of it.

We have had any number of investigations. I have a long list of all the investigations that we have pursued here. An attempt to embarrass? I do not think it is to embarrass Mr. Byrne individually. I think it is to embarrass USAID and to justify the initiative that this committee's majority has taken to eliminate USAID or USIA or ACDA. USAID is principally on the chopping block because they have the most money, do the most good throughout the world.

I am just kind of shocked that this body of people elected by Americans to serve their country the best that they know how would spend its time in this way.

Chairman GILMAN. Will the gentleman yield?

Mr. MORAN. I would be happy to, Mr. Chairman, because I would really like to understand why you would choose to spend this committee's time this way. It is just you and I now, I see, so I would like to hear from you, Mr. Chairman.

Chairman GILMAN. If the gentleman will recall, this investigation was initially started by Mr. Hamilton and the gentleman from the Senate. There were some questions that remained unresolved, and for that reason we sought to have the gentleman who was involved, Mr. Neifert, come before the committee to explain his position.

The only reason for the additional hearing was to try to resolve how best he could come before the committee and necessitated a subpoena based on the request by USAID.

Following that hearing, the follow-up hearing came about at the request of Mr. Hamilton and USAID that wanted to have the Administration come before us, which was appropriate. Then we had to get into how best to do that. That was requiring a subpoena.

It could all have very well been done very quickly by each of them appearing together. However, it necessitated subpoenas in order to have them, based upon the agreement. It was not an extended series of hearings that brought it about. It was because of the agreement, the nature of the agreement.

The purpose of the hearing was to try to resolve what the contentions were by the gentleman, Mr. Neifert, who contended that he was being improperly discharged by the Agency. We are attempting to bring that issue before the committee so it could be properly resolved.

While Mr. Byrne is here, we attempted also to look at some of the aspects of the New Management System. There is not an attempt to embarrass any agency or the government. It is an attempt to try to resolve these unanswered questions.

Mr. MORAN. Mr. Chairman, I appreciate that explanation on your part, but former Chairman Hamilton and Senator Leahy had asked for an IG report. We got the IG report. We have had any number of independent investigations. The congressional staff went to South Africa to look into it.

I do not see what has been brought to light that had not been brought to light by those investigations, nor in fact even if there was something else whether that really is our highest priority for the use of very scarce time that we have with all the problems going on around the world.

That is why I questioned if it did not have some political purpose more than just finding out what one employee's problems were in South Africa where actually the South African experience is a success story.

Chairman GILMAN. If the gentleman would further yield?

Mr. MORAN. Yes. I am happy to discuss this with you, Mr. Chairman.

Chairman GILMAN. I wanted to take a moment to note that the IG reports did raise some questions that were worthy of further review. That is also part of the necessity for conducting the hearing.

Mr. MORAN. Mr. Neifert lost his job apparently. Is he actually out of the service now? I guess that is a question you can answer, Mr. Byrne.

Mr. BYRNE. He is not off the Agency's roles yet, but he has left active employment at the moment.

Mr. MORAN. OK. He is still being paid though, I guess.

I think a more serious situation that I really would have liked to have had a hearing on is the fact that I think there are almost 800 USAID employees who are going to be RIF'd eventually because of action this Congress has taken. I would like to know the down side of that. I am sure there is a lot of down side.

In a world that is shifting dramatically as we speak, to be taking back the expertise, the experience, the opportunity to influence that transition that is going on at this time just seems to me to be more than penny wise and pound foolish and at least worthy of this kind of hearing and investigation of these other 800 instead of this one individual. That is just my opinion.

I guess I can ask Mr. Byrne if he is aware of any additional information that has come to light that has not been in the report of investigation or the IG report or any of these other independent investigations. Is there anything of consequence, Mr. Byrne, that you are aware of?

Mr. BYRNE. Not that I am aware of.

Mr. MORAN. Tell me, Mr. Byrne, what are the three projects in South Africa of which USAID should be most proud that may have made some difference in enabling South Africa to achieve a peaceful transition to democracy?

Mr. BYRNE. I think there are any number of projects we would take great pride in, but let me give them to you in three clear areas.

The first is in education where we have provided both training of teachers, as well as scholarships for thousands of South Africans to be educated both in their country and here. It has made a major impact on the quality of the leadership in South Africa and in the society.

The second area where I think we can take great pride is in the whole area of democracy and our work on the election and our ability to make sure that the transition was a peaceful one. Much of the work we had done in building non-governmental organizations in South Africa provided a basis for the peaceful transition, which I think is the most important item.

Third, I think we are working very hard in trying to improve the economic situation of South Africans universally. I think the work we have done in providing literally thousands of microenterprise loans primarily for women, the work we have done in providing training for laborers, for bricklayers, for workers to create new jobs, as well as the industrial and economic advice we have given which increased and economic growth are key issues I think all of America ought to be proud of.

Mr. MORAN. Thank you very much, Mr. Byrne.

You know, I am sorry I could only come up with such softball questions, Mr. Chairman. As you know, generally I like to give the witnesses a hard time. I cannot think of any questions that have not been asked more than once, in fact, or any that have not been answered.

It might be useful at least to leave the last word on the last point of consequence on the record that USAID actually has done a constructive job in South Africa. It is something we ought to be proud of. It is something that I would hope in similar situations we might have the resources to intervene in this constructive a way in other countries in Africa.

Thank you, Mr. Chairman.

Chairman GILMAN. Thank you, Mr. Moran.

Mr. Byrne, just a few more questions, and then we will conclude.

When you list the settlements that have been made over the last few years, would you specify the characterization of those complaints? Were they whistleblower complaints? Were they other types of cases that were involved? Maybe you can tell us at this time. Were all of those whistleblower cases that were settled?

Mr. BYRNE. Whistle blower is a term of art, if you will. I know that this committee has periodically referred to Mr. Neifert as a whistleblower. The whistleblower protection only applies when the Office of Special Counsel, for example, would come back and say there has been retaliation against an individual in a whistleblower case.

The Office of Special Counsel in this case did not, and I am unaware of any cases where the Office of Special Counsel has come back and said to us we had a whistleblower since I have been there in 3 years.

Chairman GILMAN. Were the complaints of the nature of having been retaliated by the Agency?

Mr. BYRNE. Most of the cases which we end up dealing with are cases where someone feels there may have been a sexual harassment charge. They are generally personnel actions. There are a

number of grievances related to performance appraisals. No, there are no cases I am aware of on retaliation.

Chairman GILMAN. In your opening statement you stated, "Our nation has educated tens of thousands of South Africans," and I understand President Mandela recently called President Clinton to ask for direct assistance to the South African educational system.

Can you tell the committee whether USAID will comply with that request?

Mr. BYRNE. There are a number of issues where we are already doing that with the South African Government. Our mission onsite is now in conversations with the South African Government.

I cannot tell you what the final resolution will be, but we have tried to be as responsive as we can to all of President Mandela's major concerns. I think we have done that and will probably—

Chairman GILMAN. I understand that USAID will spend \$19,000,000 this year in education in South Africa. Does any of that money go directly toward educating South Africans?

Mr. BYRNE. Yes.

Chairman GILMAN. For the record, I would like to understand better your testimony.

When Peter Askins reported the problems of the South African mission, you recommended that the mission director, Cap Dean, be pulled from his post, but you were overruled. Is that correct?

Mr. BYRNE. At the meeting which we were in, there were several other officials, senior officials, along with the administrator. A number of different opinions were expressed at that meeting, including mine.

Ultimately, Mr. Atwood chose to follow the guidance of the development experts rather than the management expert in this case.

Chairman GILMAN. But you did make that recommendation?

Mr. BYRNE. I did.

Chairman GILMAN. Mr. Byrne, regarding grants to organizations directed or controlled by Members of Congress, I note that Mr. Atwood has committed USAID to a higher level of review by the USAID general counsel before any such award is made.

The inherent conflict of interest is obvious, and I would hope USAID avoids making such awards to organizations controlled by any specific Member of Congress. I discussed this with the Ethics Committee, and they agree.

Do you approve of that proposal?

Mr. BYRNE. Yes.

Chairman GILMAN. Mr. Hilliard, did you have any further questions?

Mr. HILLIARD. Yes. I have a couple.

In your knowledge and since you have been there, has this Agency ever made any grant to an organization controlled by a Member of Congress?

Mr. BYRNE. Not to the best of my knowledge in terms of a Member of Congress.

Mr. HILLIARD. Members of Congress?

Mr. BYRNE. The black caucus grant was given to an organization that was a subset, the foundation, as Mr. Payne pointed out, of the—

Mr. HILLIARD. It is 501(c)(3) regulated government foundation.

Mr. BYRNE. That is correct.

Mr. HILLIARD. It is not controlled by any Member of Congress.

Mr. BYRNE. My understanding of 501(c)(3)s from my past history is that they must be independent.

Mr. HILLIARD. Absolutely. That is the IRS definition.

Also, let me set the record on a couple other things, too. It is my understanding, and I think the record will reflect this, that Congressman Hamilton had initially requested that the hearing involving Mr. Neifert's complaints and the reaction by Mr. Byrne be combined into one hearing. Mr. Chairman, I understand that you rejected that.

Chairman GILMAN. If the gentleman would yield?

Mr. HILLIARD. Yes.

Chairman GILMAN. It was not an outright rejection. What we were confronted with was the fact that we had to issue a subpoena in order to get the gentleman involved, Mr. Neifert, to come before the committee.

Once that was done, then there was a necessity to issue another subpoena to the witness from USAID. We had to go through a prolonged procedure in order to bring that about. Finally we evolved at this state where we had first Mr. Neifert and then Mr. Byrne to appear before us.

Mr. HILLIARD. Mr. Chairman, I will tell you that we have about 11 persons here from the Agency. I think that hundreds of thousands of dollars have been spent to collect all the information and send people to Africa to do all of the investigation.

I think we have had perhaps enough testimony from everybody and spent enough or wasted enough money on these hearings. Maybe we ought to conclude it now and let everybody go and just terminate it.

Chairman GILMAN. Mr. Hilliard, if you would permit me to, would you yield to me a moment?

Mr. HILLIARD. I will.

Chairman GILMAN. Mr. Hilliard, you know, had the mission director been reprimanded initially, I do not think we would have had to go to this expense. We did not request the 11-person delegation of USAID to appear before us today. I do not know that that was a necessary event to take place.

What we were trying to do was to get the background and have a full resolution as far as the committee was concerned of what occurred here. Bear in mind that the IG raised some problems, and we wanted to pursue those problems.

Mr. HILLIARD. Mr. Chairman, I may have been mistaken. I do not think it was 11, but thank you very much.

Chairman GILMAN. Thank you, Mr. Hilliard.

If there are no further questions, I want to thank Mr. Byrne for his patience and for his frank and candid response. The committee will stand adjourned.

[Whereupon, at 12:07 p.m., the committee was adjourned.]

**Statement Of Paul Neifert,
Foreign Service Officer
Agency For International Development
May 21, 1996**

House Committee On International Relations

Mr. Chairman and members of the Committee:

In late-1992, without realizing it at the time, I became a whistleblower at the South Africa mission of the Agency for International Development. By close of business tomorrow, at the insistence of senior agency officials, I will end my last full working day as an AID employee.

Because of my dissent to AID practices in South Africa which I believed were illegal and opposed to American interests, my assignment to that country was terminated and I was transferred back to Washington in June of 1994. Since that time, AID avoided any serious response to the problems exposed by my allegations, retaliated by assigning me to a paper-pushing job in Washington, and referred me at least twice to the Inspector General's Office on trumped-up charges.

In order to protect myself, I secured legal counsel and sought whistleblower protection at the Office of the Special Counsel. It was only after embarrassing media exposure and the intervention of concerned members of Congress, such as you, Mr. Gilman, that AID managers began any serious efforts toward resolving this matter. On April 23, 1996, AID signed an agreement that paid me compensatory damages and legal fees, but which required I resign from the Foreign Service and remain silent about the settlement terms.

A few brief examples serve to highlight the reasons for my dissent against this mismanagement.

Wasteful Cancellation of Contracts: Despite an intensive contract design effort, involving the participation of respected South African business leaders and consultants, AID managers abruptly cancelled a \$15 - 20 million dollar contract solicitation under the Black Private Enterprise Development program. The cancellation decision was made by AID South Africa director Leslie Dean and Africa Bureau officials in February 1994 without consulting the office responsible for its design, and despite the solicitation's advertisement in the Commerce Business Daily.

The South African consultants who participated in the project design, and a number of small disadvantaged South African firms that planned to join with larger U.S. companies in the contract, found themselves exposed and embarrassed in the local professional community. The project was designed to offer support for South Africa's disadvantaged businesses in an emerging, integrated, market economy. Instead, the last-minute contract cancellation alienated influential South Africans and contributed to a growing level of concern about the value of U.S. assistance.

Politicization of Grant Awards: After receiving Mr. Dean's preliminary approval to proceed, our office negotiated a \$300,000 grant with the Corporate Council on Africa, a U.S., non-profit organization that promotes American investment and trade with Africa. After I prepared the lengthy grant document, Dean inexplicably reversed his decision and refused to sign the grant at the last moment. Dean never provided any explanation for his decision.

Related questions about the intrusion of political influence were raised about AID South Africa awards to the National Democratic Institute, the Martin Luther King Center, the Congressional Black Caucus Foundation, and the International Foundation for Education and Self-Help, among others. Concerns also continue about the mission's democracy/governance program and its lack of balance in AID support to South Africa's competing political parties.

Over-Design of Projects: AID South Africa officials wasted three years and hundreds of thousands of dollars designing the \$50 million Tertiary Education Linkages Project (TELP). Despite this time and expense, and the passage of almost another two years, the project has little or nothing to show as a result.

Mistreatment of South African Staff: Compensation has been paid to other AID employees. After over a year of widespread staff complaints, investigation was begun into the manner in which the Executive Officer, Bruce Gatti, executed and administered contracts of local employees. The investigation resulted in the payment of at least 165,000 South African Rand (approximately \$50,000 at the time) to a minimum of 11 locally-hired employees.

The investigative report concluded that this aspect of the AID personnel system was " ... bitterly resented by (employees) who do not understand why the (United States Government) would impose such an unfair policy on people trying to overcome the effects of apartheid."

Overall Misconduct of U.S. Foreign Policy Towards South Africa: I think we all watched with amazement and joy as South Africans, of all colors, succeeded in their long struggle against an abhorrent system of racial apartheid. Nelson Mandela, the heroic and noble leader of the anti-apartheid victory, demonstrated for the world the kind of universal authority flowing from highly principled and moral leadership.

Now that the battle against apartheid is won, the United States has an interest in supporting all South Africans to ensure success of their new, non-racial dispensation.

This interest requires the U.S. to offer advice and assistance to South Africa which often may be difficult to deliver. Our duty to the truth and our values requires that we try. It means reminding the new government that it must make the tough decisions to keep its economic house in order, to ensure the spread of its free marketplace and to strengthen the pluralism of its democracy. It means forthrightly reminding South African officials that we take exception to their positions with regard to rogue nations such as Libya, Iran and Cuba. We do this as Americans because our experience shows that the majority of people prosper most through fiscal conservatism, free markets and multi-party democracy.

Sadly, though, this Administration is apparently not delivering these tough messages. Instead, they seem content to use the South Africa program more as a trough for selfish, domestic political patronage than as a thoughtful instrument of American foreign policy. The AID program's degeneration into a clear pattern of political and racial spoils is an obvious example of what is fundamentally wrong with this approach: It is utterly without principle and sharply diverges from our country's own cherished values.

Our relationship with the new South Africa has also become overly personal, substituting a reckless form of hero worship for a sober analysis of long-term national interest.

All is not well in South Africa today, despite the rosy reporting which dribbles out from the political appointees and State Department careerists running our embassy in Pretoria: The rand has dropped precipitously, foreign exchange reserves are reported to be low, capital flight continues, speculators, rather than long-term institutional investors are on the rise, a strain of anti-Americanism has emerged, crime is rife, privatization efforts have reportedly slowed or stopped at big South African parastatals, international money managers have not endorsed the latest cabinet shuffle and the American embassy in Pretoria has the reputation of unfairly favoring the ANC while ignoring other political parties such as the IFP and the National Party.

This may come as some surprise since Administration officials have led us all to believe that everything is well in the new South Africa. But with the hand-off of the South Africa program to inexperienced and misguided Administration supporters, and the election-year requirement for "no problems on my watch," our long-term foreign policy interest in seeing a successful South African transition is being dangerously, if not fatally, compromised.

As for the matter at hand, there is not much more I can add here today which has not already been said about mismanagement at AID South Africa. As you are aware, numerous investigations have been conducted into the administration of this program. Stewardship of the AID effort was the responsibility of Mr. John Hicks, Assistant Administrator for Africa, Mr. Keith Brown, director for Southern Africa Affairs, Mr. Leslie Dean, South Africa mission director, Mr. Bill Ford, mission deputy director, and Mr. Donald Keene, mission legal advisor. The inquiries into management of the South Africa program have uncovered a clear pattern of waste, fraud and abuse which has cost the taxpayers dearly.

I have five of these investigative reports with me today, two of which were reportedly referred to the Justice Department. There also have been widespread media accounts of these controversies published in prominent newspapers both in the United States and in South Africa. Here are twenty of those stories. In addition, a host of concerned employees have expressed their profound dismay with the conduct of the AID officials responsible for these abuses. Here are four affidavits and 13 statements from my former colleagues in South Africa. They provide graphic and heartfelt testimony about the mismanaged state of AID affairs.

If there is any interest in the above-mentioned documents, I would be pleased to make them available. I would like you to know that I earlier provided many of these same materials to staff members on both sides of the Committee aisle.

As you will see, the weight and breadth of this information offers yet further evidence, if additional proof is required, of an AID program which has been very badly managed. It offers a compelling case study of why urgent reforms are needed at this troubled agency.

In spite of all this evidence, AID irresponsibly refused to correct its management weaknesses in South Africa, resorting instead to a damage-control exercise leading eventually to a broad-based institutional cover-up. Such unconscionable dereliction of responsibility exacerbated the initial mismanagement and inflicted further harm upon our foreign assistance program. Indeed, the lack of any substantive action left the impression among South Africans and Americans alike that the senior-most officials in Washington, including AID Administrator Bryan Atwood and his superiors, condoned the events which had taken place.

Consistent with this view is the fact that all of those AID managers responsible for this debacle were rewarded with promotions and honors. Those Foreign Service Officers who questioned these practices were neutralized in whatever way required; those who complained were victimized. Such is the state of "re-engineering" at AID today.

While some might find it unusual for a Foreign Service Officer to be forced from a 12-year public career, and to testify before members of Congress under

subpoena, I do not. For during the last three years, I have witnessed many extraordinary events including the tragic unraveling of a once effective foreign assistance program and the shredding of our country's honor in the new, non-racial South Africa. To witness such incompetence and arrogance on the part of senior AID officials has been extremely disheartening.

I thank you for your invitation here today. The fact that a junior Foreign Service Officer can offer testimony before the House Committee on International Relations conveys a powerful statement about the integrity of our political system. Had it not been for the issuance of your subpoena, AID might have succeeded in further concealing these matters from your oversight.

There is one aspect of this controversy which does indeed surprise me. I am astonished that after numerous investigations, public embarrassment and employee anguish, AID managers would persist in their cover-up of this affair.

On November 6, 1995, the AID Office of the Inspector General published a report entitled "USAID/South Africa Contracting and Personnel Practices." As Committee staff are aware, the AID office in South Africa has a fully-delegated, senior contracting officer, Mr. John McAvoy, who possesses an unlimited dollar contract signature authority. Despite this fact, the IG report fails to provide any record of interviews with McAvoy and, in fact, conceals mention of McAvoy's own dissent in the matter of AID procurement abuses.

I understand that Mr. McAvoy registered serious and repeated complaints about the legality of procurement methods at the AID mission. I am also aware that Mr. Dean retaliated against McAvoy by seeking his transfer from South Africa, just as Dean had earlier transferred me from Pretoria for my objections to AID mismanagement.

Mr. Chairman, how can the IG credibly investigate widespread reports of AID contracting violations yet fail to record the statements and interviews of the one person most knowledgeable of such misconduct?

The IG investigation into mission personnel practices is similarly deficient. AID conceals the fact that an excessive number of staff departed South Africa prior to the end of their tours or the completion of their contracts. During an approximate three-year period beginning in January 1993, a minimum of 13 staff members departed the Mission early, while only two successfully completed their tours of duty.

One of the two latter employees rescinded her request for an assignment extension when the mismanagement of Dean and Ford reached unbearable proportions. In another instance, the unexplained transfer of the assistant director,

Janice Weber, compelled Ambassador William Swing to send a strongly-worded protest to AID headquarters in Washington.

Why does the IG report conceal the fact that so many employees left AID South Africa early? And why does AID ignore the substantial expenditure of taxpayer dollars implied by such wasteful personnel practices? The high cost of excessive staff turnover and the expense of multiple international reassignments represents an extravagant use of foreign assistance funds, not to mention a cavalier disregard for the well-being of staff.

My own experience is also instructive.

I arrived in South Africa in November 1991 with an unblemished performance record. While in Pretoria I served as private sector officer, reporting to a Senior Foreign Service Officer, Harry Johnson. Mr. Johnson, now retired in Durban, South Africa, had 29 years of distinguished government service. Our division administered grants and contracts to organizations assisting business development efforts in the disadvantaged communities of the country. The approximate size of these programs was \$60 million over 10 years.

I received outstanding performance evaluations for my work in South Africa through March 1994. I was recommended for promotion five times by my supervisors and received a meritorious honor award, signed by Ambassador Princeton Lyman and senior Africa Bureau officials, in early 1994 for my work in 1993. I received two written commendations for my role in the visit to South Africa by the late Secretary of Commerce, Mr. Ron Brown.

On occasion, I took issue with AID practices that I believed were inconsistent with good judgment, sound practice and written regulation. My motivations, however, were always consistent with our stated goal of hastening the demise of apartheid and preparing disadvantaged South Africans for a new, non-racial South Africa. I was proud to support this objective.

In spite of my good performance record, I was notified by Mr. Dean on February 7, 1994, that my assignment was to be curtailed. On that very same day, a cable announcing all world-wide job assignments was received from Washington, advertising my job as available. Dean provided no specific rationale or written reason for his transfer decision at the time. He failed to provide me with any such written explanation for almost six weeks. My two immediate supervisors were not consulted, advised or previously aware of Dean's decision to transfer me. Both of my supervisors wrote memos of protest concerning Dean's decision.

On February 22, 1994, I filed an administrative grievance. I charged my assignment was curtailed because of my opposition to policies and mismanagement

which I believed were illegal and irresponsible. AID never provided any substantive response to my grievance and I was transferred to Washington in June 1994.

My subsequent assignment in Washington entailed little or no responsibility. As I pursued my legal efforts, I was made the target of retaliation by AID managers. My office chief reports he was instructed by the AID director of personnel, Frank Almaguer, to do what was necessary to have me fired. In spite of a satisfactory job evaluation during this time, AID officials misused their personnel system to unfairly down-grade my performance, threatening my dismissal.

Attempts to obtain documents for my legal case through the AID "Freedom of Information Act" office, then headed by Mr. Gatti, were stymied by year-long delays and absurd bureaucratic double-talk. I was referred to the IG on bizarre charges. Mr. Dean also falsely alleged to IG investigators that I was offered a bribe by an AID contractor. AID managers suggested I seek counseling with the Agency's social worker and Mr. Atwood referred to me in public as a "so-called whistleblower." My legal bills began to mount.

Frustrated and ignored from within AID, I pursued my case while seeking bipartisan Congressional oversight attention. I also sought whistleblower protection with the U.S. Office of the Special Counsel. It was this exposure, and not any willingness on the part of AID to "do the right thing," which finally compelled agency officials to take my complaints seriously.

On April 23, 1996, the AID Assistant Administrator for Management, Larry Byrne, signed a settlement agreement which pays me compensatory damages and legal fees of \$133,500. AID agrees to provide me five and one-half months of paid leave, to expunge prejudicial information from my performance file and to write me a letter of commendation.

The settlement agreement stipulates that a notice against racial discrimination will be posted at the AID office in Pretoria, South Africa.

Finally, the agreement requires my resignation from the Foreign Service, which will take effect on approximately November 6, 1996. AID also insisted upon a confidentiality clause requiring my silence about the settlement terms.

Mr. Chairman, AID tried to make me the issue in this matter, but I am beside the point, merely a messenger, someone who spoke up, fought back.

After hiding their mismanagement for over two years, AID finally admits to "questionable decisions and practices" by placing blame on its fast-growing South Africa program budget and the "enthusiasm of the mission."

AID resorts to suspect statistics showing it does not pursue an "exclusive approach to contracting," in effect implying that part-time discrimination in the new, non-racial South Africa is somehow justified.

AID seeks to discount the serious problems uncovered in South Africa, as if there were some *de minimus* standard they could apply in matters of ethics, accountability and truth.

No, the examples presented in my testimony are not isolated events; they are indicative of an ethos whose guiding principles are careerism and political expediency rather than ethics and moral courage. It was legitimate, Mr. Chairman, for you to recently describe similar conduct as a "breach of faith," because that is exactly what it is.

As for the "re-engineering" now underway at the agency, former U.S. Attorney General, Elliot Richardson, could have been describing AID when he said that what was needed were not more arcane rules and complex systems, but to somehow instill in us that it is normal, indeed honorable, to stand-up, to fight back and to refuse to participate in what we clearly know to be wrong.

Until that time, ladies and gentlemen, contemptible government bureaucrats may seize our careers, but they will never touch our self-respect.

Thank you.

**STATEMENT BY REPRESENTATIVE JAY KIM (CA)
HOUSE INTERNATIONAL RELATIONS COMMITTEE
MAY 21, 1996**

MR. KIM. Mr. Chairman, I want to take this opportunity to thank you for your personal efforts to seek out the truth about our USAID mission in South Africa. Your leadership has made it possible for us to be here today to hear testimony from a dedicated and courage American, Mr. Paul Neifert (NI-Fert). I take pride in letting my fellow colleagues on this Committee know that Mr. Neifert is one of my constituents from Upland, California.

It has been almost two years since Mr. Neifert first contacted me to inform me of the problems in our USAID South Africa mission. Since August of 1994, I have been working diligently to address the concerns raised by Mr. Neifert that our efforts in South Africa are inappropriate and contrary to the principles of ending apartheid. Unfortunately, my efforts have met with the same stonewalling attitude that permeates throughout Mr. Neifert's personal efforts to resolve this issue. In fact, I personally requested a copy of the Inspector General's report on this issue in November 1995 and have yet to receive it or even a letter explaining why it is being delayed. Six months and still no reply!

Since AID has not been cooperative, Mr. Neifert's presence before this Committee, in compliance with a subpoena, is the only way to obtain the answers withheld from us for too long. This Committee should not have to issue such a subpoena -- but USAIDs actions have compelled us to do so.

I look forward to hearing Mr. Neifert's testimony and encourage him to explain to this Committee, as he has done to me, the truth about the USAID mission in South Africa. Mr. Neifert -- I want to personally thank you for your steadfastness to the truth and welcome you.

Thank you Mr. Chairman.



U.S. AGENCY FOR
INTERNATIONAL
DEVELOPMENT

JUL 14 1995

Mr. Leslie A. Dean
Director
USAID/Pretoria
U.S. Agency for International Development
Washington, D.C. 20521-9300

Dear Cap,

On March 14, 1995, we wrote to you to inform you that an evaluation of the procurement system in USAID/Pretoria would take place in the spring of 1995. This evaluation was necessary to meet the requirements of Executive Order 12352 that the Agency's Procurement Executive review and certify USAID's contracting system. The evaluation team of Elizabeth Cordaro, Barry Cohen, and Kim Ervine met with you to discuss their findings at the conclusion of their evaluation in June. I am now writing to confirm that conversation and to restate the findings and recommendations of the evaluation team.

First of all, John McAvoy is an outstanding contracting officer who is knowledgeable about acquisition and assistance procedures, rules, regulations, and guidance. He consistently focuses on preserving the integrity of the procurement process and the credibility of the Mission. In addition, he is personally committed to the USAID/South Africa development objectives.

Secondly, the Mission did not comply with the terms and conditions of the USAID/South Africa Grants Program agreement memorandum dated July 15, 1994, that we both signed. (See Attachment #1.) I am greatly disappointed in the Mission's attitude. Furthermore, if you were not going to abide by the agreement terms and conditions, a courtesy call explaining why would have been greatly appreciated. At that point, we could have discussed the problems and possibly reached another suitable arrangement. I expect the Mission to immediately implement the agreement memorandum terms and conditions.

Specifically, the Mission was in agreement to develop additional means of publicizing USAID's grant program for non-U.S. Non-Governmental Organizations (NGOs). The evaluation team found no evidence that the Mission was even attempting to accomplish this. The Mission should provide a general announcement of the USAID/South Africa program and how to submit proposals in a location open to the general public.

In order to properly award the "hundreds" of assistance instruments entered into by USAID/Pretoria, the Contracts Office must be staffed properly. The Mission should consider transferring some positions from the project office to the procurement office. Project personnel are spending a high percentage of their time on assistance actions, yet they are not following proper procedures, as discussed below. In the contracting office, the Contracting Officer could ensure that proper procedures are followed. We have analyzed other overseas Contracting Offices so you have a basis of comparison for the conclusion that the Contracts Office in South Africa is severely understaffed. In Bolivia for FY '95, the OYB is \$40.4 million. In addition to the Contracting Officer, there is a very senior USPSC and four FSN's. In Indonesia, the OYB is \$80.3 million. They also have a very experienced USPSC and three FSN's on the staff. The West Bank/Gaza has an OYB of \$76 million. That program is covered from Amman, Jordan with significant work being performed by AID/W. The contracting office in Amman also covers Jordan, Oman, and Yemen with a combined FY '95 OYB of \$22.4 million. The office consists of two USDH Contracting Officers, with a staff of four FSN's; they are responsible for a combined program of \$98.4 million, significantly less than South Africa's. If the current staffing level remains, I will insist that a significant part of the Mission work be transferred to M/OP in Washington for action.

As discussed, in the Sherwin/Dean memorandum, the grant team found that the Mission had done a thorough job of making responsibility determinations, based on financial reviews and preaward site visits of new grantees. However, current findings suggest that complete responsibility determinations are not being processed. The grant files were missing discussions of the recipient's management responsibility, policies, organization; and, rationale for determination of responsibility including a statement that the List of Parties Excluded From Federal Procurement and Non-Procurement Programs had been reviewed and the recipient's name was not included on the list. Future responsibility determinations must be in accordance with Handbook 13 requirements.

In addition, the agreement memo noted that the grant files were incomplete and the M/OP evaluation team found the same. Grant file documentation was weak or nonexistent and lacked appropriate documentation as required by Handbook 13. The majority of grant files reviewed did not include: selection process information, grant attachments, recipient proposals, negotiation memorandum, complete responsibility determinations, ASR meeting documentation, and payment provisions or general provisions. During the evaluation, the team discovered that the grant files were scattered throughout the Mission. All acquisition and assistance files should be centralized in the Contracting Officer's office.

The grant process at the Mission is very labor intensive. During the exit interview, the team suggested that the Mission streamline the grant clearance process by eliminating reviews of the grant document itself and the action memorandum by the Senior Mission management, i.e., Program and Project Development Office Director, Regional Legal Advisor, Deputy Mission Director, and the Mission Director. In order to process an assistance instrument, the Grants Officer requires a program authorization and fund availability similar to the information on a PIO/T. You agreed with the recommendation but requested my concurrence in redelegating programmatic approval to the Office Director or Division Chief level. You have such authority under Delegation of Authority No. 551. Therefore, I have no objection to such a redelegation.

The Mission should ensure that the appropriate assistance instrument is being utilized by obtaining early guidance from the Grants Officer, John McAvoy. A large majority of the grant files reviewed were actually cooperative agreements. Most of the "grants" reviewed included substantial USAID involvement in approving workplans, other conditions precedent, evaluation methods and personnel, etc. These elements are characteristic of cooperative agreements, not grants.

The Mission should conduct a needs assessment and process a class deviation from the current assistance regulations covering its unique requirements. This includes the special certification provision "Assurance of Compliance with Internationally Recognized Workers Rights" and other, assistance provisions, such as the Mission specific "procurement" provisions, cost principles, payment, etc. During the exit interview, you decided that John Wooten, Program and Project Development Director and John McAvoy would prepare the class deviation request.

During its review, the team found that each division had a variety of ways to review grants and some divisions had written or oral procedures. To ensure consistency among divisions, one standard written set of grant review procedures should be developed for use by the entire Mission.

The Mission should utilize umbrella grant arrangements to help manage the heavy workload. Since the Mission has decided that this is the method to use, applications should be solicited; unsolicited proposals are not appropriate.

The evaluation team found one instance where a US PSC literally ran out of funding. Mission personnel also indicated that there were occasions where the same problem was occurring with FSN PSCs. The Mission needs to design a "tickler system" to indicate when US PSCs and FSN PSCs require funding. In addition, the Mission needs to coordinate OE FSN PSC funding information by

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issuing at least seminannual amendments to reflect current total estimated costs and current obligations.

The Mission has allowed an FSN PSC to supervise U.S. direct hires. This is a clear violation of AIDAR regulation, Appendix J, 4(b)(3)(iv). The Mission is required to process an AIDAR deviation to allow an FSN PSC to supervise a direct hire for each and every case.

The Mission is encouraged to provide general training for appropriate personnel in the areas of project management and grants management. In addition, the Procurement Management Certification Program needs to be completed by the Regional Contracting Officer, and the appropriate staff members in the Contracts and Executive offices.

The Mission is suffering from a lack of procurement planning. The Annual Procurement Planning System (APPS) is not being followed or enforced. The Mission would benefit tremendously if procurement ideas were discussed with the Regional Contracting Officer (RCO) early in the procurement process.

Both the Regional Contracting Officer and the Executive Officer need to establish a bulletin board for posting all small purchase opportunities exceeding \$10,000. This was being processed at the time of the exit interview.

Close-outs are not being completed. A close-out program must be established to ensure that close-outs are being processed routinely for all types of acquisition and assistance instruments.

Although the evaluation team did not find any unauthorized commitments, Mission personnel acknowledged that several had occurred within the last six to eight months. I would like you to find out what those actions were and let me know how you dealt with them. Also, the Mission is required to submit any future unauthorized commitments to me as the Agency's Procurement Executive for formal authorization. Refer to AIDAR Part 750 which sets forth the procedures that must be followed in requesting such authorization.

Since many of the findings and recommendations discussed above are of major significance, I expect your cooperation in implementing them and would like a report every thirty days discussing the Missions' implementation of them. Submission of the monthly report is required until further notice is given by me.

Addressing these issues will serve to strengthen the Agency's procurement system as well as facilitating the goals of the

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Mission.

Both the evaluation team and I appreciate the courtesies and assistance extended by you and your staff during their visit to Pretoria.

Sincerely,



Michael D. Sherwin
Procurement Executive
Deputy Assistant Administrator
for Management

**Statement of Larry Byrne
Assistant Administrator for Management
U.S. Agency for International Development**

House Committee on International Relations

June 17, 1996

Mr. Chairman and members of the Committee:

Thank you for the opportunity to appear today to discuss the U.S. Agency for International Development's (USAID) South Africa program. We particularly welcome the chance to respond to a number of allegations made by Mr. Paul Neifert, a former USAID South Africa Mission employee, at a recent hearing before this committee.

The matter before us today has been the subject of four Congressional hearings and has also come up in the course of Ambassadorial nominations and other committee business. We hope this hearing will provide sufficient information so that this Committee, as well as our other oversight committees, will be able to focus on the important development issues facing Africa today in nations such as Liberia, Burundi, Nigeria and elsewhere.

The Committee has a right to be concerned by the serious management allegations that have been raised by Mr. Neifert and others, and we are happy to respond to those allegations. First and foremost, we need to put these allegations in the proper context. The USAID program in South Africa has been an unmitigated success. This Congress, past Administrations, the current Administration and the American public should take great pride in their part in assisting one of the most

important social and political transformations of this generation. South Africa is a foreign aid success story.

Over the last decade, the United States, under Republican and Democratic Presidents alike, has spent nearly one billion dollars on programs in South Africa. Among other things, these programs have assisted nongovernmental organizations and lawyers defending victims of apartheid, strengthened community organizations, and helped South Africans develop adult education programs to meet the needs of their new society. In a recent survey, 75 percent of South African respondents stated that USAID made a considerable contribution to political empowerment through programs dealing with human rights and legal aid, civic assistance and democratic development.

Under USAID's scholarship programs, nearly 6,000 black South Africans received formal post-secondary training. By 1993, more than 2,000 of them were known to hold middle and senior level positions in and outside government.

The program in South Africa has been innovative and effective. Our assistance, channeled solely through nongovernmental organizations during the apartheid period, was crucial in helping to bring an end to a political system where the majority of South Africans were denied their fundamental human rights. The United States, for example, was the largest single donor to voter education efforts during South Africa's first non-racial national election. Since that time, American assistance has helped the new government and nongovernmental organizations to build houses, restructure government ministries, improve the educational system, and address other legacies of apartheid.

The strength of our South Africa program has always been its ability to respond to a rapidly changing environment. No one should underestimate the skill and personal courage of our field personnel in designing and managing dynamic programs under these circumstances. It personally pains me to see the reputations and character of our field staff and management -- individuals who have given mightily to the cause of South Africa and to America's foreign policy -- called into question by Mr. Neifert's overblown rhetoric which is frequently based on rumors not facts.

Were there some problems in our South Africa program? Yes, there were. Did USAID work actively and aggressively to identify and rectify these problems? Absolutely.

It should be noted for the record that shortly after these problems were first raised, the Regional Inspector General had completed a preliminary investigation into Mr. Neifert's criminal allegations and found no basis for a full investigation. Also, Administrator Atwood sent an independent management assessment team to investigate the management related issues. The assessment team identified a number of deficiencies and areas for improvement, but concluded that "USAID South Africa, in the face of enormous pressures, has made enormous contributions to U.S. objectives in South Africa and to making possible the historic transition taking place in that country. These contributions are well recognized and appreciated by all South Africans, NGOs contacted, as well as by the U.S. Embassy."

The recommended management improvements were a natural consequence of the rapid growth of the program -- nearly a tenfold increase in eight years -- which created a huge management challenge. But I must stress that Cap Dean, the Mission

Director, and John Hicks, the Assistant Administrator for Africa, dealt with these management challenges appropriately.

The management assessment was followed by a series of other reviews, including: a review of Executive Office operations in June 1994; a review of personnel policies for South Africans hired locally by the mission in July 1994; a review of the grant-making process in June/July 1994; and a procurement review in June 1995. In short, USAID has thoroughly and repeatedly acted -- without prompting or pressure -- to ensure that the management of this high-priority foreign policy program met every standard of conduct and operation.

In fact, upon close inspection of the record, an objective observer can only be led to a single conclusion: Mr. Neifert was not a whistleblower as much as an individual with a very large axe to grind.

In his recent testimony, Mr. Neifert made a number of remarkable allegations. Mr Neifert suggested that the office of the USAID Inspector General -- an independent investigative unit whose integrity has never been questioned -- was somehow part of a shadowy effort to cover up the truth. Mr. Neifert suggested that the Congressional Black Caucus was guilty of strong-arming USAID to make specific grants or contracts without a single shred of proof of any such behavior. Mr. Neifert -- whose sweeping foreign policy statements are more appropriate to a Secretary of State than to a Foreign Service officer -- attacked U.S. policy toward South Africa as little more than "a reckless form of hero worship" based on "racial spoils."

Equally incredibly, at this same hearing, Mr. Neifert conveniently neglected to inform this committee that he had originally sought three million dollars for his

alleged sufferings. Mr. Neifert failed to inform you that it was he who first approached the agency seeking a monetary settlement, not the other way around. Some have been quick to call the settlement with Mr. Neifert an attempt to somehow "buy his silence," but such an argument has little to do with the facts. Mr. Neifert has been free at all times to express his opinions on the South Africa program and USAID's management. He has had extensive consultations with Congressional staff, the media and others to air his views. The settlement states only that Mr. Neifert not discuss the terms of the settlement itself, a legal requirement quite routine in these matters. This feature of the settlement is advantageous to Mr. Neifert, and was requested by his lawyers as well as our own.

It is unfortunate that Mr. Neifert has made outrageous rhetoric his standard operating procedure in these proceedings. There is a clear pattern of overstatements that lack substantive or factual grounding. It should be remembered that this is the same individual who once attacked the USAID South Africa management in an electronic mail message as, "spineless, effete sycophants" because they had simply shut his window at work.

I have attached to this statement a point-by-point refutation of some of the more egregious claims Mr. Neifert made in his recent appearance before the Committee to set the record straight.

The heart of the allegations made by Mr Neifert was that there was racial bias in USAID's assistance program in South Africa. Mr. Neifert's alleges that USAID distorted the purposes of U.S. assistance to South Africa by focusing too much on working through South African organizations led by black South Africans and by giving grants and contracts to African-American firms. The fact that we would spend

four congressional hearings debating whether black South Africans benefitted too much from U.S. assistance programs in that nation is a rather remarkable proposition in and of itself.

Concurrent with Mr. Neifert's allegation that black South Africans have somehow been enjoying the spoils of racial preference, is a subsequent charge that an inordinate number of USAID's agreements with American groups have gone to organizations led by African-Americans. Mr. Neifert's also alleges that he was been wrongly penalized for raising these policy concerns and removed from South Africa without just cause.

The evidence in no way supports these allegations.

USAID has articulated a commitment to making disadvantaged South Africans the main beneficiaries of its work; few would argue with that commitment. In South Africa today, there are still fundamental inequalities in society. Generations of segregation and apartheid policies have left most non-white South Africans with little access to housing, education, health care, and many of the other benefits of modern society. Addressing the needs and capabilities of the most disadvantaged is exactly why development programs are conducted, not just in South Africa, but around the globe. The history of USAID's involvement in South Africa, particularly its support for South African organizations working to end apartheid and to establish a more just political and economic order, has demonstrated that U.S. assistance can help to improve conditions for poor communities.

USAID has made special efforts to increase the participation of local nongovernmental organizations led by members of the disadvantaged majority in South

Africa, but this is consistent with both legislative and policy guidance. As our program has grown, we have increased our focus on disadvantaged-led groups in South Africa. But we have also increased funding to South African white-led groups -- from \$10.1 million in fiscal year 1990 to \$24.1 million in fiscal year 1994.

In 1994, disadvantaged groups received a combined total award greater than that of white-led groups for the first time. But still, white-led groups accounted for 34 percent of awards to South African groups -- while whites constituted only 12.8 percent of the population. Notwithstanding the mission's active outreach strategy, in fiscal year 1994, 63 percent of awards channelled through South African groups went to disadvantaged-led organizations, although the disadvantaged majority accounts for 87 percent of the South African population. These are hardly statistics that bolster Mr. Neifert's claim of some massive conspiracy in the field of grants and contracts.

Let it be equally clear, the U.S. Congress has unequivocally directed us in the South African Democratic Transition Support Act to "give priority to working with and through South African nongovernmental organizations whose leadership and staff represent the majority population and which have the support of the disadvantaged communities being served by such organizations."

Further, the figures do not support the assertion that a disproportionate amount of U.S. contracting went to African-American groups. The participation of "Gray Amendment" entities in South Africa was consistent with existing legislative and policy guidance. The Inspector General's investigation concluded that, "a priority of the USAID/South Africa mission was to reach out more actively to African-American groups and individuals in the United States. Further, in contracting with 'Gray Amendment' entities, USAID/South Africa specifically emphasized African-American

firms and institutions." Yes, the Mission recognized the specialized experience that African-Americans can bring to bear on the challenges of disadvantaged South Africans. But no, USAID/South Africa did not try to contract exclusively with African-Americans.

African-American firms and nongovernmental organizations, it should also be remembered, have special expertise in working in a society seeking to heal the wounds of racial tension. The civil rights struggle in the United States gave many of these organizations a wealth of experience that had special bearing on the South African context.

One objective way of determining whether the mission "reached out" too much to African-Americans is to consider the data on awards of contracts and grants. In South Africa, USAID has a balanced program. Between fiscal year 1990 and fiscal year 1995, African-American entities received \$38.6 million in awards (or 8 percent of the mission's total program budget), compared to \$136.4 million (or 29 percent) for white American groups and \$15.8 million (or 3 percent) for other ethnic groups in the United States. Most awards went to South African groups (\$283.21 million, or 60 percent of the total). Since fiscal year 1990, the number of awards to African-Americans each year has ranged from 0 to 18 -- small numbers in comparison to the hundreds of contracts and grants awarded each year.

Clearly, the answer to the question of whether the mission tried to contract exclusively with African-American and/or Gray Amendment groups in the U.S. is a resounding no.

In short, there is no factual basis whatsoever to claim that USAID grants and contracts have been disproportionately directed to any ethnic or social group.

An equally clear-headed inspection of the facts in this matter indicates that Mr. Neifert was not removed from South Africa because he raised policy concerns that USAID management did not agree with. As any of you who have worked with the agency are well aware, policy debates within the agency are frequent and lively. Such debates are encouraged and are in no way grounds for management action against an employee. Mr. Neifert's request to serve a second tour of duty in South Africa was disapproved because of his unwillingness to implement policies once decisions had been reached. Policies mandated by legislation and administrative guidance can be subject to interpretation, but once management decisions have been made, it is the duty of employees and others to act upon these decisions. If unable to implement a decision, one must move on, or else a pattern of inappropriate, divisive and unprofessional conduct is likely to result.

I would be more than happy to offer this Committee any documentation it desires to substantiate these facts. I guarantee you that Mr. Neifert's behavior, if it had taken place in any one of your offices, would have led to his summary dismissal. USAID was exceedingly patient with Mr. Neifert, who was warned repeatedly about inappropriate behavior.

Our efforts to reach a settlement with Mr. Neifert were not unusual given the situation. A settlement was reached to save the taxpayers the expense of prolonged litigation on the matter. However, this settlement was also reached to allow Mr. Neifert to get on with his life. I would note that Congressional offices regularly enter into such settlements, and unlike this settlement, the public is denied access to their

particulars. USAID acted prudently and sensibly in entering into this settlement, and I imagine that all parties are reaching a point when they would like to leave this tempest in a teapot behind them.

Today, South Africa has come very far, but great challenges still remain. U.S. assistance is helping South Africa consolidate and accelerate the process of change. Our programs are addressing terrible poverty and other basic social needs. It is my sincere hope that, as numerous as the proceedings on this affair have been, we not lose sight of why we are involved in Africa and how that involvement has made a tremendous difference.

Thank you.



U.S. AGENCY FOR
INTERNATIONAL
DEVELOPMENT

June 4, 1996

The Administrator

The Honorable Benjamin Gilman
Chairman
Committee on International Relations
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

The purpose of this letter is to thank you for your support for the motion to subpoena an appropriate USAID official to respond to the charges made by former USAID employee, Paul Neifert, during testimony before your Committee on May 21, 1996.

I understand that the business meeting has been rescheduled for Thursday, June 6. Hopefully, this change will enable a quorum to be present so that the motion to subpoena can be acted on positively.

Thank you for your help in this matter.

Sincerely,

J. Brian Atwood

Allegations and Fact

During his 5/21/96 appearance before the Committee, Mr. Neifert made a number of allegations. Unfortunately, many of these allegations represent misstatements, inaccuracies and distortions. The materials below are presented to set the record straight.

Allegation: USAID avoided any serious response to Mr. Neifert's allegations and it was only after embarrassing media coverage and Congressional intervention that USAID managers began efforts to resolve this matter.

Fact: USAID took a number of steps to review the situation at USAID/South Africa prior to Mr. Neifert's return to USAID/Washington in June, 1994 and prior to the first media coverage in July 1994:

- | | |
|----------------|--|
| 1993 | Beginning in 1993, Assistant Administrator/Africa Hicks made periodic visits to the Mission for the purpose of ensuring high-level attention to one of USAID's most challenging and sensitive programs. |
| January, 1994 | At the request of Assistant Administrator/Africa Hicks, a fulltime contracting officer was assigned to the Mission in South Africa to handle the burgeoning workload.

Assistant Administrator/Africa Hicks visited USAID/South Africa for consultations on program progress and management; met with Mission management, mission staff as a group, separately with Foreign Service Nationals and small groups and individuals on request. |
| February, 1994 | Africa Bureau and the Mission decided an independent management review was needed given the changing circumstances in South Africa, rapid growth in USAID's program, management and personnel issues associated with these developments and the serious allegations and conduct problems the Mission was experiencing with Mr. Neifert. They also decided that the Inspector General should conduct an investigation of Mr. Neifert's allegations. |

March, 1994	Inspector General conducted a preliminary investigation into Mr. Neifert's allegations of criminal and administrative improprieties.
April, 1994	Management Assessment Team sent to South Africa to review the allegations.
June, 1994	Review conducted of executive officer functions in response to allegations regarding payment of foreign nationals. Administrator Atwood consulted with Mission Director Cap Dean in Washington and requested periodic updates from the Mission on the status of management actions. Assistant Administrator/Africa John Hicks visited South Africa mission to review management and other issues; meetings were held with Mission management, Mission staff as a group, Foreign Service Nationals separately, and groups and individuals who requested an audience in order to address as many concerns as possible.
July, 1994	Agency Procurement Executive-led team reviews grants process. Mission prepared and issued a Management Implementation Plan which responded to all recommendations in the Management Assessment Report.

Allegation: "AID irresponsibly refused to correct its management weaknesses in South Africa, resorting instead to damage-control exercise."

Fact: The Mission was well aware that adjustments and changes to management procedures were needed in order to manage effectively such a rapidly growing program operating in a complex, political environment. Therefore, the Mission has taken a number of steps, including:

- establishment of an improved system to compete grants;
- recruitment of additional procurement staff;
- reorganization of the Mission;

- delegation of decision-making;
- training of project officers;
- a special EEO training program; and
- an ongoing orientation training program which provides greater sensitivity to the complex South African environment.
- provided monthly reports to the Agency's Procurement Executive to ensure integrity in the procurement process. (The Procurement Executive and the Contracting Officer in South Africa have now agreed that enough progress has been made in correcting problems in the procurement process that those reports are no longer required.)

Finally, Washington management has an ongoing dialogue with senior Mission management to ensure that all Mission staff are sensitive to the issues raised in the Inspector General's report.

Allegation: USAID paid compensatory damages to Mr. Neifert.

Fact: The settlement agreement signed by USAID and Mr. Neifert contains no reference whatsoever to "compensatory damages". In fact, the agency pointedly refused to include such language throughout settlement negotiations.

Allegation: USAID could have saved several employees from being terminated by the RIF if it had not paid Mr. Neifert's settlement.

Fact: Mr. Neifert's settlement has no bearing on the current reduction in force (RIF) taking place at USAID. This RIF is required because the FY 1997 operating expense level will not permit the Agency to operate at its current staff level. In fact, the settlement amount is substantially less than the cost of continued litigation.

Allegation: Cancellation of a new contract advertisement under the Black Private Enterprise Development (BPED) Project was an example of poor management.

Fact: The proposed new contract advertisement under the Black Private Enterprise Development project was canceled to avoid possible duplication with the Southern Africa Enterprise Development Fund, a regional project, the design

of which had not been completed. Both projects would have provided technical assistance to small businesses. The decision to cancel the Commerce Business Daily notice was made after a final determination to include technical assistance to small businesses under the Fund.

Allegation: Mr. Dean provided preliminary approval to proceed with the Corporate Council on Africa proposal but he refused to sign the final grant. Mr. Dean never provided an explanation for this decision.

Fact: Mr. Dean never provided preliminary approval for the Corporate Council on Africa (CCA) proposal. Prior to Mr. Dean receiving any grant-related documentation from the Private Sector Division, a meeting was held with a CCA board member which covered a number of topics of interest to the board member, including this proposal. In this meeting, Mr. Dean advised him that USAID would not be funding the proposal. The Chief of the Private Sector Division and Mr. Neifert's immediate supervisor, Mr. Harry Johnson, and it was explained to him after the meeting took place.

Allegation: Intrusion of political influence regarding the awarding of grants to the National Democratic Institute, the Martin Luther King Center, the Congressional Black Caucus Foundation and the International Foundation for Education and Self-Help.

Fact: Many American organizations have been interested in working in South Africa and some of them have received political support for their programs. For example, Ambassador Joseph recently received a letter from Chairman Gilman and Representatives Hamilton, Ros-Lehtinen, and Ackerman urging USAID to "take into account" the views of IRI and NDI as it implements its strategic plan for South Africa in democracy and governance.

However, it must be made clear that political influence has never been improperly brought to bear on the procurement process. All of the grants to the organizations mentioned in the allegation were in response to unsolicited proposals. Exceptions from competition were justified on the basis of the uniqueness of the proposal and/or the special capabilities of the organization to carry out the proposal.

Allegation: "AID managers responsible for this debacle were rewarded with promotions and honors. The Foreign Service officers who questioned these practices were neutralized in whatever way required; those who complained were victimized."

Fact: There was no debacle. The program under Mr. Dean's leadership has been recognized by many for the important contribution it has made to historic changes in South Africa. After completing his four year assignment in South Africa, it is anticipated that Mission Director Leslie Dean will assume a Deputy Assistant Administrator position in the Africa Bureau. This is not a promotion--there has been no change in rank or pay--but an appropriate assignment for someone of Mr. Dean's rank and his 26 years of experience.

It should also be noted that IG investigators also looked into Mr.. Neifert's allegation that eleven people had been forced to leave the post early. The IG investigator managed to speak with nine of the named individuals (seven U.S. direct-hire employees and two U.S. personal services contract employees), but the IG concluded that none had been forced to leave. To quote the IG report, "None claimed that he or she had been forced to leave or had been forcibly removed . . . none gave any indication of having been subject to adverse action of having been compelled to leave against their will."

Allegation: Mr. Neifert was referred at least twice to the IG on "trumped-up" charges and USAID managers suggested that he seek counselling with the Agency's social worker.

Fact: There were indeed two instances in which Mr. Neifert's conduct came to the attention of the Inspector General's office, but these were not in any way "trumped up."

(1) In May 1994, just prior to his departure from post at the end of his first tour, Mr. Neifert received a written invitation, from a USAID South African grantee of USAID, for which he had oversight responsibility, to attend an upcoming small business workshop. In part due to the nature of the workshop and Mr. Neifert's impending departure from post, the supervisor denied Mr. Neifert's request to attend. Mr. Neifert then had his wife call in sick for him on the two days on which he attended the workshop. When USAID management became aware of this behavior the Inspector General's office was contacted because of questions of sick leave abuse and the possible acceptance of a gift from a prohibited source. Upon full investigation it was determined that while Mr. Neifert did indeed attend the conference while fraudulently claiming sick leave, he did not accept any illegal gift from the prohibited source and thus, no allegation of a crime could be substantiated.

(2) Upon returning to Washington D.C., Mr. Neifert was assigned to the Enterprise Development division of USAID's Bureau for Europe and the Newly Independent States (ENI/ED). Despite the new surroundings and with one exception a set of colleagues and supervisors, there were rising tensions

within the ENI/ED office stemming from the fact that Mr. Neifert was clearly becoming increasingly disgruntled and angry at the entire agency management. That one exception was a friend and colleague from USAID/South Africa.

It was in this context that Mr. Neifert stated to one of his supervisors that, "sometimes [he was] so frustrated that [he] felt like strapping dynamite to [his] body and taking some people with [him]." or words to that same effect. At the time his supervisors discussed the incident and decided that this was just another instance of his excessive levels of angry rhetoric and nothing more. They thus determined that nothing further was to be done at that time.

Shortly after the Oklahoma City bombing Mr. Neifert remarked to another of his supervisors that he "could understand the motivations of the terrorists in attacking the federal building if the rest of the U.S. government was as morally corrupt as AID, and in that sense he could be sympathetic to what they had done." Given his past remarks and the overall context his supervisors met again and decided to bring the matter to the attention of the Inspector General's office.

A meeting was held in which both incidents described above were discussed with the IG. The IG determined that there was not sufficient evidence that an actual threat existed, and the matter was not pursued further by the IG.

In a subsequent and related effort to help diffuse tensions and address this troubling situation in the office, Mr. Neifert's supervisor pointed out to Mr. Neifert that he appeared to be under increasing amounts of stress, and that the Agency provided a free and voluntary counseling service for employees in such situations. Mr. Neifert rebuffed this outreach effort.

Allegation: Mr Neifert provided four affidavits and 13 statements from his former colleagues which testified to mismanagement in the South Africa program.

Fact: It should first be noted that several of the separate statements he provided came from the same individuals, thus creating the impression that he had more support than was in fact the case. These statements appear to have been selected from amongst the much larger, four volume Report of Investigation (ROI) prepared by the firm of Danoff and Donnelly at the request of USAID, as part of Mr. Neifert's Equal Employment Opportunity (EEO) complaint and his grievance before the Foreign Service Grievance Board. Preparation of such reports is a normal part of the grievance and discrimination complaint processes.

Under normal circumstances we treat ROIs as confidential and do not disclose them to the public under the Freedom of Information Act, in order to protect the interests of all personnel involved in the EEO process. If the Committee is truly interested in reading the entire four volume ROI, rather than just a few carefully chosen portions and excerpts of it selected by Mr. Neifert alone, we can legally provide the report upon a formal request from the Chairman of the committee.

Allegation: During his January 1994 visit to South Africa, Mr. Atwood was isolated from the people in the mission who took objection to what AID was doing in South Africa.

Fact: Administrator Atwood held a "town meeting" with the entire South African staff, including foreign service nationals, several joint meetings with various levels of USAID staff and NGOs, and a reception widely attended by the mission staff. In addition, Mr. Atwood met privately with several junior level staff, project officers and NGO representatives working closely with the mission to discuss any concerns they had regarding mission operations. These meetings were arranged outside of the mission and did not involve any of the Africa Bureau staff nor senior mission staff. In none of these meetings were the views of Mr. Neifert regarding widespread problems or "extreme polarization" in South Africa shared.

For each site visit and meeting Mr. Atwood was briefed by officers directly responsible for program implementation as well as South African foreign service national staff. These briefings often took place with only the project or program officer and Mr. Atwood in his vehicle enroute to a site or meeting.

Allegation: House International Relations Committee Chairman Gilman displayed at the May 21, 1996 Paul Neifert hearing a picture showing Administrator Atwood at a ribbon-cutting ceremony for a community center that had been rejected for USAID funding.

Fact: The Pinetown township site to which the allegation refers was included in Mr. Atwood's schedule for its proximity to the meetings already on the schedule and USAID's role in supporting the community leader and community groups working to improve civil society and voter education within the township. It also provided the best opportunity for Mr. Atwood to view living conditions in a local township and to talk with average citizen victims of apartheid.

Mr. Atwood was aware that USAID was not funding any infrastructure improvements in the Finetown township. Mr. Atwood was invited by the community leaders to join them in laying the brick for their building; there was never any commitment, implied or otherwise, from USAID at that time to fund their building project.

Allegation: Lack of support from USAID technical staff for the Soft Sheen International Foundation (SSIF) grant and the project only placed five people in hair care related jobs.

Fact: Each time Congress has asked about the Soft Sheen International Foundation grant USAID has readily admitted that the grant had not performed as well as originally expected. The allegation that none of USAID's technical staff were supportive of the grant in the Private Sector Development Division was simply not true. Harry Johnson, Mr. Neifert's supervisor, signed the memorandum, prepared by the Division, which recommended approval of the grant. Mr. Neifert, in his testimony before this committee, said it was a good idea, but questioned its timing.

Allegation: Mr. McAvoy complained about the legality of procurement methods at the South Africa mission and Mr. Dean retaliated against Mr. McAvoy by seeking his transfer.

Fact: A USAID assessment team, led by USAID's Procurement Executive, addressed Mr. McAvoy's concerns and concluded "In its review of the grants process, the team has seen no evidence of systemic vulnerabilities, significant control weaknesses or unacceptable risks of legal or regulatory misconduct that were suggested by the RCO" (Mr. McAvoy). Furthermore, at no time did Mr. Dean initiate any request to remove Mr. McAvoy. The Agency Procurement Executive and Mr. McAvoy, the Contracting Officer in USAID/South Africa have recently agreed that the problems in the procurement process there have essentially been corrected and the Mission's monthly report on procurement will no longer be required.

Allegation: USAID entered into some sort of "secret agreement" that was an attempt to "buy his [Neifert] silence"

Fact: The settlement does not restrict Mr. Neifert's right to speak his mind on issues of public concern in any way, including the USAID program in South Africa. Nor has there ever been an attempt to place such restrictions on him. In fact,

during his recent testimony before this committee, the only new information Mr. Neifert shared was the terms of his settlement with the Agency.

The settlement agreement does contain a confidentiality clause that prohibits each party from discussing the terms of the agreement with outside parties except under certain conditions. However, the nondisclosure provision applies only to the terms of the settlement itself. Confidentiality clauses such as this are not at all unusual in settlement agreements.

The purpose of such confidentiality clauses is to protect the Agency's negotiating position in any future settlement negotiations. In fact, during a current settlement negotiation subsequent to the hearing at which the Neifert settlement figures were publicly disclosed by this committee, the individual with whom we are trying to negotiate a settlement stated, "I want the same deal [as Mr. Neifert]"

Mr. Neifert has had full access to the press. He has been cited in numerous news articles that discussed allegations against the South Africa program and is also the author of several letters to the editor and even articles in various publications.

Mr. Neifert has also been in continued contact with Congressional staff on this issue. Even after execution of the settlement agreement, he has sent e-mails and faxes that refer to his connections with staff members.

Allegation: USAID director of personnel, Frank Almaguer, tried to have Mr. Neifert fired.

Fact: Both Mr. Almaguer and Mr. Neifert's ENI/ED office director have denied the allegation. However, Mr. Neifert's continuing on-the-job performance and behavior problems were very worrisome to say the least.

Allegation: Mr. Neifert's tour was curtailed and he was given a make-work assignment because he raised questions about waste, fraud and abuse in the USAID South Africa mission.

Fact: Mr. Neifert was neither "curtailed" from South Africa nor given a "make-work" assignment in Washington. The fact is that Mr. Neifert fully completed his first two year tour in South Africa, which included a several month extension granted so that he could have a chance to cease his disruptive and unprofessional behavior. Since he did not do so, he was not given the option of a second two year tour in South Africa. Instead he was given an

assignment in Washington as a private sector officer to a job (very similar to the one he held in South Africa) in the private enterprise office of the Bureau for Europe and New Independent States, a high priority foreign policy region.

USAID encourages its employees to engage in frank an open exchanges with management concerning current and potential policies. However, there comes a time when such discussion must end, decisions must be made, and work must be done.

Contrary to Mr Neifert assertions, he did not have an unblemished record prior to February 7, 1994. Mr. Neifert was not reassigned for a second tour in South Africa because of his persistent disruptive and divisive behavior. This included sending mission-wide e-mails designed to promote dissent against mission management and create unrest and discord. For example in a July 14, 1993 e-mail, he used one of Churchill's fighting charges intimating that a war was on in the mission. He also sometimes used vulgar and revolting language in these e-mails. His behavior included illegal possession of a firearm, obstinate resistance to standard Agency requirements such as filing the Confidential Disclosure Report (SF-450), and breaches of security procedures.

He had been repeatedly counseled by Mission officials about his disruptive and unprofessional behavior and these warnings culminated into a September 10, 1993 letter in which he was formally notified he would not be extended for a second tour. Mission Director Cap Dean met with Mr. Neifert when that letter was delivered and Mr. Neifert asked for a second chance, promising to reform his conduct. Mr. Dean agreed to give him a chance to do so and therefore agree to extend his tour for a limited period, based on Mr. Neifert's promise that he would cease his disruptive behavior. He did not and consequently he was transferred to Washington after completing the extended first tour.

Allegation: Unfair treatment of Foreign Service Nationals (FSN) with respect to job classification and pay.

Fact: FSN personnel issues were a concern of Mission management from the time of the arrival of Mission Director Leslie Dean. Shortly after his arrival a Standing Personnel Committee was appointed, chaired by an FSN, on FSN personnel issues.

Mission management raised with Washington the FSNs' concerns about classification and pay. A classification expert was sent to address these concerns. Once the person arrived, questions about classification and pay

were quickly resolved for most FSN personnel and back-pay due to a number of people was provided.

Allegation: USAID was involved in the preparation and funding of proposals which the Agency claims to have been unsolicited. Mr. Neifert stated that proposals by the Health Systems Trust and the Martin Luther King Center were examples of this practice and that while he was not aware of any other examples there may be similar cases.

Fact: First, it should be remembered that a USAID procurement team, led by USAID's Procurement Executive, concluded "In its review of the grants process, the team has seen no evidence of systemic vulnerabilities, significant control weaknesses or unacceptable risks of legal or regulatory misconduct that were suggested by the RCO." (Regional Contracting Officer)

The Health Systems Trust was an isolated case. The Martin Luther King Center grant did not violate procurement practices.

The Health Systems Trust (HST) grant was processed by an employee of the Center for Disease Control and Prevention (CDC) of the U.S. Department of Health and Human Services (HHS) who was assigned to work with USAID/South Africa. An investigation by the USAID Inspector General determined that the employee had violated Agency policy and regulations related to unsolicited proposals in helping to prepare a proposal from HST for HIV/AIDS activities to be undertaken in conjunction with the South African Ministry of Health. This was not sanctioned by Mission management.

Given the IG finding of a violation of USAID policy, the matter was discussed with the Department of Justice for their review. The Department of Justice declined this matter for prosecution "based on a lack of evidence that the grantee acted improperly or that either government employee profited from their involvement in [the] grant." Given that he was an employee of HHS, the USAID Inspector General also referred a copy of their report to the Inspector General of HHS. We believe that this was the proper disposition of this matter.

This incident demonstrated the need for better procurement training at post. Training courses on the Procurement Integrity Act and other implementation practices and procedures are now in place.

The Martin Luther King Center (MLKC) submitted a voter education and non-violence proposal. The proposal was considered to be a worthy funding prospect. However, concerns regarding project design and financial

management systems led the mission to provide a planning grant after consultation with USAID/Washington.

It is not at all unusual for USAID to provide planning grants if a particular proposal appears to have merit but needs additional work before full funding. The history of this practice extends back to prior administration and the Office of Management and Budget has been aware of and not objected to the practice of occasionally awarding a grant to develop a proposal.

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REDUCTION IN FORCE

Mr. Hilliard: Mr. Byrne, on April 11, 1996, USAID Administrator Brian Atwood announced that he might be forced, because of "austere budget forecasts," to RIF employees. On June 3, 1996, Mr. Atwood announced that he was planning to RIF 200 employees. Mr. Byrne, why is this RIF necessary? Please explain to me in detail what budgetary constraints or shortfalls are forcing you to RIF employees?

Answer: The Administration, in submitting its budget request for FY 1997, made a conscious decision to attempt to reduce the overall budget deficit. In doing so, difficult choices had to be made, one of which dealt with the overall funding levels for USAID. Although the Agency examined many options for cost savings, analysis showed that it would not be possible to identify sufficient cost savings to enable the Agency to maintain existing staffing levels. The workforce reduction required to manage at the level of \$495 million was about 200 more than could be anticipated through attrition. Only after completion of a detailed review of possible options did the Administrator reluctantly announce his decision to conduct the RIF.

FOREIGN SERVICE SECRETARIES

Mr. Hilliard: According to Mr. Atwood's memo of June 3, 1996, Foreign Service secretaries are deemed "surplus" to the needs of the foreign service. Why is that? Who are these secretaries? What is their racial make-up? What is their average length of service? What is their average level of education?

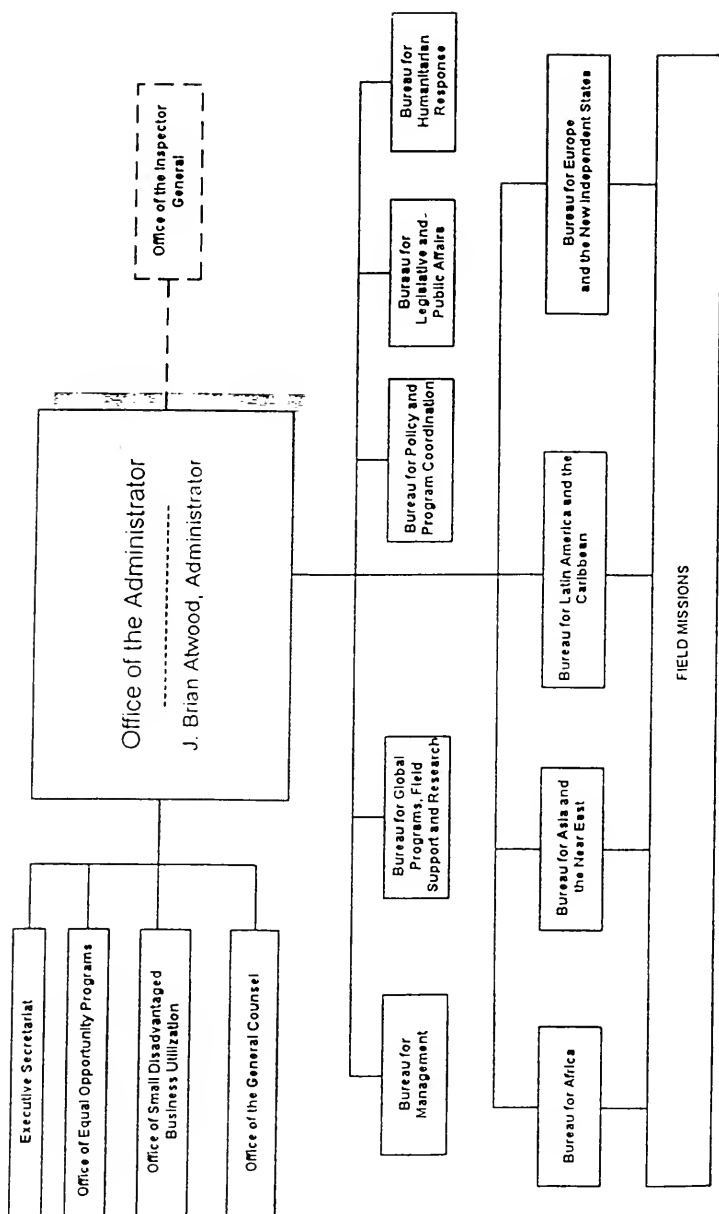
Answer: Foreign Service secretaries were deemed "surplus" based on Agency analyses which indicate that there is no longer a career track or the positions for U.S. direct hire secretaries or clerical staff in the Foreign Service. Also, missions increasingly are hiring spouses of embassy employees or relying on Foreign Service nationals to provide administrative and clerical support. Prior to the reduction-in-force, there were 27 Foreign Service secretarial positions. Because of downsizing and restructuring of Missions overseas, 14 of these positions were identified for deletion, leaving only 13 Foreign Service secretarial positions. There were 27 Foreign Service secretaries before the reduction-in-force in grades FP-04 through FP-06, consisting of 44 percent African-American, 51 percent Caucasian and 5 percent Asian who had an average of 21.4 years of government service and 12 years of education. A total of 14 of these secretaries were RIFed, leaving 13 Foreign Service secretaries, the majority of whom occupy Civil Service positions in Washington.

RIF'S IN THE MANAGEMENT BUREAU

Mr. Hilliard: A USAID memo states: "With certain exceptions, the fairest and most equitable way to accomplish the required reduction is for them to be broadly distributed." How many departments are there in USAID? How many departments will suffer RIF's? How many RIF's will come from your department?

Answer: USAID's headquarters in Washington has six independent Offices, including the Office of the Inspector General, and nine Bureaus as shown on the attached chart. All Offices and Bureaus were affected by the reduction-in-force. In the "M" Bureau, there were 29 employees who separated because they were riffed, accepted the early-out, or were approved for the buy-out. In addition to these 29 employees, the Management or "M" Bureau lost 121 employees through normal attrition, retirements, and resignations for a total reduction in FY 1996 of 150 employees or 18 percent. Prior to this, from June 30, 1995, until September 30, 1995, the Bureau had downsized by 71 employees. As employees left positions in the Management Bureau, we have either eliminated positions or left positions vacant. As of September 30, 1996, the on-board strength in the Management Bureau had been reduced to 673 employees (90 are complement employees) from 823 employees a year earlier. This represents an 18 percent reduction in the last fiscal year.

U.S. Agency for International Development



U.S.A.I.D. Mission/Bureau/Office Staffing Pattern Report - Workforce Summary -
Number of Employees On-And by Country, Category and Funding Source

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WORKSHEET FOR WASHINGTON BUREAU/OFFICES

COUNTRY	USCS DN	USFS DN	FSM DN	TCN DN	US PSC	FSN PSC	TCN PSC	PASA	RSSA	JCCO	IPAO	AAAS	TACS	POPF	CSFP	US NON- PSC	FSN NON- PSC	OTN	TOTAL	DEP/ SPOUSE
AAID																				
OE FUND	16	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	18	0
TRUST FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
PROG FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL	16	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	18	0
AS																				
OE FUND	14	4	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	18	0
TRUST FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
PROG FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL	14	4	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	18	0
EDP																				
OE FUND	12	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	12	0
TRUST FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
PROG FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL	12	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	12	0
ES																				
OE FUND	87	62	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	149	0
TRUST FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
PROG FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL	87	62	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	149	0
OSDBU																				
OE FUND	11	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	12	0
TRUST FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
PROG FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL	11	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	12	0
SC																				
OE FUND	42	15	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	57	0
TRUST FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
PROG FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL	42	15	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	57	0
SA																				
OE FUND	61	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	63	0
TRUST FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
PROG FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL	61	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	63	0
SPC																				
OE FUND	62	21	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	83	0
TRUST FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
PROG FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL	62	21	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	83	0
SI																				
OE FUND	731	157	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	888	0
TRUST FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
PROG FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL	731	157	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	888	0
SPR																				
OE FUND	76	53	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	129	0
TRUST FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
PROG FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL	76	53	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	129	0
ENI																				
OE FUND	133	56	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	189	0
TRUST FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
PROG FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL	133	56	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	189	0
ANE																				
OE FUND	52	44	0	0	0	0	0	0	0	1	0	0	2	1	1	0	0	0	104	0
TRUST FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
PROG FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL	52	44	0	0	0	0	0	0	0	1	0	0	2	1	1	0	0	0	104	0
JAC																				
OE FUND	51	31	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	82	0
TRUST FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
PROG FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL	51	31	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	82	0
BNR																				
OE FUND	72	177	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	249	0
TRUST FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
PROG FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL	72	177	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	249	0
S																				
OE FUND	184	58	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	243	0
TRUST FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
PROG FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL	184	58	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	243	0
Grand Total	1810	823	0	0	97	0	0	12	88	0	8	39	16	28	20	0	0	4	2484	0

U.S.A.I.D. Mission/Bureau/Office Staffing Pattern Report - Workforce Summary -
Number of Employees On-Brd by Country, Category and Funding Source

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WORKSHEET FOR WASHINGTON BUREAUS/OFFICES

COUNTRY	USCS DH *	USFS DH *	FSN DH	TCN DH	US PSC	FSN PSC	TCN PSC	PASA	RSSA	JCCO	IPAO	AAAS	TACS	POPF	CSFP	US NON- PSC	FSN NON- PSC	OTH	TOTAL	- DEP/ SPOUSE
AI/AIO	15	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	17	0
OE FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TRUST FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
PROG FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL	15	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	17	0
ES	14	4	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	18	0
OE FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TRUST FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
PROG FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL	14	4	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	18	0
EOP	12	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	12	0
OE FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TRUST FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
PROG FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL	12	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	12	0
IG	84	71	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	155	0
OE FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TRUST FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
PROG FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL	84	71	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	155	0
OS/SBU	10	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	11	0
OE FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TRUST FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
PROG FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL	10	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	11	0
GC	40	14	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	54	0
OE FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TRUST FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
PROG FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL	40	14	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	54	0
LPA	59	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	60	0
OE FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TRUST FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
PROG FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL	59	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	60	0
RPC	62	16	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	78	0
OE FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TRUST FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
PROG FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL	62	16	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	78	0
NI	659	164	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	823	0
OE FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TRUST FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
PROG FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL	659	164	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	823	0
AFR	77	52	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	129	0
OE FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TRUST FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
PROG FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL	77	52	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	129	0
ENI	129	61	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	190	0
OE FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TRUST FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
PROG FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL	129	61	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	190	0
ANE	50	38	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	88	0
OE FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TRUST FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
PROG FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL	50	38	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	88	0
LAC	49	34	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	83	0
OE FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TRUST FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
PROG FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL	49	34	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	83	0
BRH	71	21	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	92	0
OE FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TRUST FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
PROG FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL	71	21	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	92	0
G	166	82	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	249	0
OE FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TRUST FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
PROG FUND	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL	166	82	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	249	0
Grand Total	1517	542	0	0	130	4	2	11	111	0	6	40	15	30	17	1	0	4	2420	5

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REDUCTION IN SECRETARIES COMPARED TO SENIOR MANAGERS

Mr. Hilliard: Secretaries (primary skill code 060) will suffer a 52% reduction in their ranks, while the senior management group(primary skill code 010) will see a 4% reduction in their ranks. Can you explain that disparity?

Answer: USAID's Senior Management Group has been steadily declining over the past five years even before the Reduction-in-Force was implemented. On July 30, 1990, there were 286 Senior Management Group positions. Today there are 185 positions, a decrease of 41 percent. Of these 185 positions (of these 175 are filled positions), 40 percent of the positions are filled by FS-01 and FS-02 level Foreign Service Officers and a few GS employees with the remainder encumbered by Senior Foreign Service Officers. On September 30, 1992, there were 284 Senior Foreign Service employees. By December 31, 1996, that number had dropped to 156 (including 15 pending promotions to the Senior Foreign Service and 3 Ambassadorial appointments) or a 45 percent reduction. Over the past four years, there had not been a commensurate decrease in the number of Foreign Service secretaries.

AFFIRMATIVE ACTION

Mr. Hilliard: "Mr. Byrne, does your agency consider or apply affirmative action goals when hiring new employees? If yes, why? Does your agency apply affirmative action goals when firing or riffing? If no, why not?"

Answer: Yes, if the candidates being considered fall in the absent or imbalanced job category of employment. This action is required by the U.S. Equal Employment Opportunity Commission's Management Directive 714 which calls for Federal agencies to assess the utilization of the EEO groups in each job occupation and establish numerical objectives for the absent and imbalanced EEO groups. In these instances, USAID utilizes numerical objectives to address the employment imbalances for the identified EEO groups with the ultimate objective of achieving a diverse workforce. USAID does not apply affirmative action goals when "firing" or "riffing".



PERCENTAGES OF MINORITY EMPLOYEES

Mr. Hilliard: "Mr. Byrne, what percentage of USAID employees are African American? What percentage are Hispanic? What percentage are women?"

Answer: As of October 31, 1996, of the 2,594 full-time and part-time permanent employees within the USAID, 26.5 percent (688) were African American; 3.2 percent (82) were Hispanic and 47.8 percent (1240) were women.

Mr. Hilliard: "What percentage of your Senior Management are minorities?"

Answer: As of November 30, 1996, there were 39 minorities in a senior management of 242 or 16 percent. 9.5% Black, 5.0% Hispanic, 1.2% Asian Pacific American, and 0.5% Native American.

Mr. Hilliard: "How many Blacks work in your department and what percentage are they of the overall workforce in your department?"

Answer: As of October 31, 1996, of the 576 employees within the Bureau for Management, 46.5 percent (268) were African American.



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